

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

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

(b) “Air mile” means nautical mile.

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

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

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

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

~~(1) A vehicle that has a gross vehicle weight rating or gross combination weight rating, or a gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater. Gross combination weight rating shall be the greater of the following:~~

~~(A) — A value specified by the manufacturer of the power unit, if the value is displayed on the federal motor vehicle safety standard (FMVSS) certification label required by the national highway traffic safety administration; or~~

~~(B) — the sum of the gross vehicle weight ratings or the gross vehicle weights of the power unit and all towed units, or any combination of these, that produces the highest value, except that the gross combined weight rating of the power unit shall not be used to define a commercial motor vehicle if the power unit is not towing another vehicle;~~

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

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

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

~~(g)~~ “Commission” means Kansas corporation commission.

~~(h)(g)~~ “Conviction” means any of the following, whether or not the penalty is reduced, suspended, or resolved by means of a probationary agreement:

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

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

- (3) a plea of guilty or nolo contendere accepted by the court;
- (4) the payment of a fine or court cost; or
- (5) violation of a condition of release without bail.

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

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

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

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

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

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

- ~~(1)~~—Between a vehicle manufacturer's facilities;
- ~~(2)~~—between a vehicle manufacturer and a dealership or purchaser;
- ~~(3)~~—between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;
- ~~(4)~~—to a motor carrier's terminal or repair facility for the repair of "disabling damage," as defined in 49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f, following a crash;
- ~~(5)~~—to a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or
- ~~(6)~~—by means of a saddle mount or towbar.

~~(m)~~—“Driver” means any person who operates any commercial motor vehicle.

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

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

~~(p)~~(m) “FHWA” means federal highway administration.

~~(q)~~(n) “FMCSA” means federal motor carrier safety administration.

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

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

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

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

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

~~(v)~~(s) “Joint line rate” means a rate, charge, or allowance established by two or more common motor carriers of property or passengers that is applicable over the carriers’ lines and for which the transportation can be provided by these carriers.

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

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

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

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

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

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

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

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

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

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

~~(dd)~~(y) “Out-of-service” and “OOS,” when used to describe a driver, a commercial motor vehicle, or a motor carrier operation, mean that the driver, commercial motor vehicle, or motor carrier has ceased to operate or move pursuant to the statutes and regulations of the state of Kansas, the federal motor carrier safety administration regulations, or ~~the industry standards specified on pages 1-82 of the “North American standard out-of-service criteria,”~~ including the appendix, published by the commercial vehicle safety alliance, revised on April 1, 2014 2016, and hereby adopted by reference.

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

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

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

~~(hh)~~ “Principal place of business” means the location that is listed as the motor carrier’s address on the motor carrier’s MCS-150 form.

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

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

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

~~(H)~~(ff) “USDOT” means the United States department of transportation. (Authorized by and implementing K.S.A. ~~2015 Supp.~~ 66-1,112, K.S.A. 66-1,112g, K.S.A. ~~2015 Supp.~~ 66-1,129; effective Jan. 1, 1971; modified, L. 1981, Ch. 424, May 1, 1981; amended, T-83-45, Dec. 8, 1982; amended May 1, 1983; amended May 1, 1984; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 28, 2000; amended Nov. 14, 2011; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

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

- (a) Examine motor carrier equipment operating on the highways in this state;
- (b) enter upon any motor carrier's premises located in Kansas and inspect and examine the motor carrier's records, books, and equipment located on the premises;
- (c) examine the manner of the motor carrier's conduct as it relates to the public safety and the operation of commercial motor vehicles in this state; and
- (d) declare or place, or both, any commercial motor vehicle, driver, or motor carrier "out-of-service" for any "out-of-service" conditions as defined in K.A.R. 82-4-1(~~dd~~).

Authorized personnel shall declare and mark as out-of-service any commercial motor vehicle, driver, or motor carrier that by reason of its mechanical condition or loading would likely cause an accident or a breakdown or is in violation of any commission economic or safety regulations or "out-of-service" criteria as defined in K.A.R. 82-4-1(~~dd~~). An "out-of-service vehicle" sticker shall be used to mark each vehicle and any intermodal equipment as out-of-service. (Authorized by K.S.A. 2015 Supp. 66-1,108a and K.S.A. 2015 Supp. 66-1,108c; implementing K.S.A. 2015 Supp. 66-1,108b; effective Nov. 14, 2011; amended May 6, 2016; amended P-_____

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

(a)(1) With the following exceptions specified in this subsection, 49 C.F.R. Part 40, as in effect on October 1, 2011 2015, is hereby adopted by reference:

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

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

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

(C) Paragraph (c) shall be deleted.

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

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

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

(B) The following definition of “Custody and control form” shall be added after the definition of “Cancelled test”: “‘Custody and control form’ (CCF) means the form adopted by reference in K.A.R. 82-4-3b(a)(18)(A).”

(C) In the definition of “Consortium/Third party administrator (C/TPA),” the term “DOT” shall be deleted and replaced with “commission.”

(D) In the definition of “Continuing Education,” the term “DOT” shall be deleted and replaced with “approved.”

(E) In the definition of “Drugs,” the phrase “this part and DOT agency regulations” shall be deleted and replaced with “this regulation and K.A.R. 82-4-3c.”

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

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

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

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

~~(J)~~ In the definition of “Invalid drug test,” the phrase “as in effect on October 1, 2010, and hereby adopted by reference,” shall be added after the phrase “HHS Mandatory Guidelines.”

~~(K)~~ In the definition of “Laboratory,” the words “by DOT” shall be deleted.

~~(L)~~ The following definition of “motor carrier” shall be added after the definition of “Medical Review Officer”: “Motor carrier.” The definition of motor carrier found in K.S.A. 66-1,108 and amendments thereto, shall apply to this section.”

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

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

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

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

~~(Q) In the definition of “Service Agent,” the phrase “DOT” shall be deleted and replaced by the phrase “commission.”~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(6) The following revisions shall be made to 49 C.F.R. 40.14:~~

~~(A) In paragraph (e), the phrase “§ 40.35 of this part” shall be deleted and replaced with “49 C.F.R. 40.35 as adopted by K.A.R. 82-4-3b.”~~

~~(B) Paragraph (g) shall be deleted and replaced with “The FMCSA shall be indicated as the specified testing authority.”~~

~~(C) In paragraph (i), the phrase “§ 40.67 of this part” shall be deleted and replaced with “49 C.F.R. 40.67 as adopted by K.A.R. 82-4-3b.”~~

~~(7) The following revisions shall be made to 49 C.F.R. 40.15:~~

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

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

~~(ii) The phrase “49 C.F.R. Part 40” shall be inserted before the phrase “subpart Q as adopted by K.A.R. 82-4-3b.”~~

~~(iii) The phrase “of this part” shall be deleted.~~

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

~~(i) The phrase “this part” shall be deleted and replaced with “49 C.F.R. Part 40 as adopted~~

by K.A.R. 82-4-3b” in both instances.

(ii) The phrase “§ 40.121” shall be deleted and replaced with “49 C.F.R. 40.121 as adopted by K.A.R. 82-4-3b.”

(iii) The phrase “§ 40.121(e)” shall be deleted and replaced with “49 C.F.R. 40.121(e) as adopted by K.A.R. 82-4-3b.”

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

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

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

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

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

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

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

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

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

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

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

(ii) The words “his or her” shall be deleted and replaced by “the commission’s.”

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

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

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

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

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

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

(10) In 49 C.F.R. 40.23(e), the phrase “§40.197” shall be deleted and replaced with “49 C.F.R. 40.197 as adopted by K.A.R. 82-4-3b.”

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

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

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

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

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

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

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

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

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

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

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

~~(F) In paragraph (j), the phrase “DOT agency” shall be deleted and replaced with “commission.”~~

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

~~(12) (5)~~ 49 C.F.R. 40.26 shall be deleted and replaced by the following: “Management information system (“MIS”) data shall be reported to the commission within 10 days of the commission’s request for the information. MIS data shall be reported in a certified form acceptable to the commission. A certified form acceptable to the commission shall include the following information:

“(a) Information regarding the employer, including:

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

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

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

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

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

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

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

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

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

“(2) the total number of employee categories;

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

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

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

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

“(A) Pre-employment;

“(B) random;

“(C) post-accident;

“(D) reasonable suspicion or cause;

“(E) return-to-duty; and

“(F) follow-up.

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

“(A) Total number of test results;

“(B) verified negative results;

“(C) verified positive results for one or more drugs;

“(D) positive for marijuana;

“(E) positive for cocaine;

“(F) positive for PCP;

“(G) positive for opiates;

“(H) positive for amphetamines;

“(I) canceled results; and

“(J) refusal results, including:

- “(i) Adulterated;
- “(ii) substitutes;
- “(iii) shy bladder with no medical explanation; and
- “(iv) other refusals to submit to testing.
- “(d) Information resulting alcohol testing data, including:
 - “(1) The type of test, including the same types as listed in paragraph (c)(1) above;
 - “(2) the number of tests by results, including:
 - “(A) total number of screen test results;
 - “(B) screening tests with results below 0.02;
 - “(C) screening tests with results of 0.02 or greater;
 - “(D) number of confirmation test results;
 - “(E) confirmation tests with results of 0.02 through 0.039;
 - “(F) confirmation tests with results of 0.04 or greater;
 - “(G) canceled results; and
 - “(H) refusal results, including:
 - “(H) Shy lung with no medical explanation; and
 - “(ii) other refusals to submit to testing.”

~~(13) The following changes shall be made to 49 C.F.R. 40.29:~~

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

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

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

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

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

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

~~(14) The following revisions shall be made to 49 C.F.R. 40.31:~~

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

~~(B) In paragraph (b), the phrase “§ 40.33” shall be deleted and replaced with “49 C.F.R. 40.33 as adopted by this regulation.”~~

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

~~(15) The following revisions shall be made to 49 C.F.R. 40.33:~~

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

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

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

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

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

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

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

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

~~(16) (7) The first sentence of 49 C.F.R. 40.37 shall be deleted, and replaced by “Other information regarding the role and functions of collectors can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation:”.~~

~~(17) The following revisions shall be made to 49 C.F.R. 40.41:~~

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

~~(B) In paragraph (b), the phrase “§ 40.43” shall be deleted and replaced by “49 C.F.R. 40.43 as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraph (f)(2)(ii), the phrase “§ 40.69” shall be deleted and replaced with “49 C.F.R. 40.69 as adopted by K.A.R. 82-4-3b.”~~

~~(18) The following revisions shall be made to 49 C.F.R. 40.43:~~

~~(A) In paragraph (d)(1), the phrase “§ 40.193(b)” shall be deleted and replaced with “49 C.F.R. 40.193(b) as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (e)(1), the term “DOT agency representatives” shall be deleted and replaced by “special agent or authorized representative.”~~

~~(19) The following revisions shall be made to 49 C.F.R. 40.45:~~

~~(A) Paragraph (a) shall be deleted and replaced by the following: “The ‘Federal Drug Testing Custody and Control Form’ (CCF), Version C dated May 14, 2010 (OMB No. 0930-0158), which is hereby incorporated by reference, must be used to document every urine collection required by the commission drug testing program.”~~

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

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

~~(ii) In the first sentence, the term “DOT” shall be deleted.~~

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

~~(iv) The third sentence shall be deleted.~~

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

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

~~(ii) Paragraph (c)(3) shall be deleted.~~

~~(D) Paragraph (e) shall be deleted.~~

~~(20) The following revisions shall be made to 49 C.F.R. 40.47:~~

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

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

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

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

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

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

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

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

~~(iv) The phrase “§ 40.205(b)(2)” shall be deleted and replaced by “49 C.F.R. 40.205(b)(2) as adopted by K.A.R. 82-4-3b.”~~

~~(21) The following revisions shall be made to 49 C.F.R. 40.49:~~

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

~~(B) The phrase “as in effect on October 1, 2011, and hereby adopted by reference” shall be added after the phrase “Appendix A of 49 C.F.R. Part 40.”~~

~~(22) The following revisions shall be made to 49 C.F.R. 40.61:~~

(A) At the end of paragraph (a), the phrase “§ 40.191(a)(1)” shall be deleted and replaced with “49 C.F.R. 40.191(a)(1) as adopted by K.A.R. 82-4-3b.”

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

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

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

(ii) The phrase “required by K.A.R. 82-4-6d, and by 49 C.F.R. 391.43, 391.45, and 391.49, as adopted by K.A.R. 82-4-3g” shall be added after “medical examination.”

(D) In paragraph (f)(5)(i), the phrase “§ 40.67” shall be deleted and replaced with “49 C.F.R. 40.67 as adopted by K.A.R. 82-4-3b.”

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

(A) Paragraph (a) shall be deleted and replaced by the following: “Complete the appropriate portions of the CCF as set forth in 49 C.F.R. 40.45 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (d)(1), the phrase “§§ 40.67 and 40.69” shall be deleted and replaced with “49 C.F.R. 40.67 and 40.69, as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (e), the phrase “§ 40.67” shall be deleted and replaced with “49 C.F.R. 40.67, as adopted by K.A.R. 82-4-3b.”

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

(A) In paragraph (a)(1), the phrase “§ 40.193(b)” shall be deleted and replaced with “49 C.F.R. 40.193(b) as adopted by K.A.R. 82-4-3b.”

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

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

~~(D) In paragraph (b)(5), the phrase “§ 40.67” shall be deleted and replaced with “49 C.F.R. 40.67 as adopted by K.A.R. 82-4-3b.”~~

~~(E) In paragraph (b)(7), the phrase “§ 40.191(a)(3)” shall be deleted and replaced with “49 C.F.R. 40.191(a)(3) as adopted by K.A.R. 82-4-3b,” and the phrase “§40.191(a)(4)” shall be deleted and replaced with “49 C.F.R. 40.191(a)(4) as adopted by K.A.R. 82-4-3b.”~~

~~(F) In paragraph (c)(1), the phrase “§ 40.67” shall be deleted and replaced with “49 C.F.R. 40.67 as adopted by K.A.R. 82-4-3b.”~~

~~(G) In paragraph (c)(3), the phrase “§ 40.191(a)(4)” shall be deleted and replaced with “49 C.F.R. 40.191(a)(4) as adopted by K.A.R. 82-4-3b.”~~

~~(25) The following changes shall be made to 49 C.F.R. 40.67:~~

~~(A) In paragraph (a)(3), the phrase “§ 40.197(b)(1)” shall be deleted and replaced with “49 C.F.R. 40.197(b)(1) as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (c)(2), the phrase “§§ 40.61(f)(5)(i) and 40.63(e)” shall be deleted and replaced with “49 C.F.R. 40.61(f)(5)(i) and 40.63(e) as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraph (c)(3), the phrase “§ 40.65(b)(5)” shall be deleted and replaced with “49 C.F.R. 40.65(b)(5) as adopted by K.A.R. 82-4-3b,” and the phrase “§ 40.65(c)(1)” shall be deleted and replaced with “49 C.F.R. 40.65(c)(1) as adopted by K.A.R. 82-4-3b.”~~

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

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

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

~~(G) In paragraph (l), the term “(Step 2)” shall be deleted.~~

~~(26) The following revisions shall be made to 49 C.F.R. 40.69:~~

~~(A) In paragraph (d), the phrase “§§ 40.63(e), 40.65(c), and 40.67(b)” shall be deleted and replaced with “49 C.F.R. 40.63(e), 40.65(c), and 40.67(b) as adopted by K.A.R. 82-4-3b.”~~

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

~~(27) The following revisions shall be made to 49 C.F.R. 40.71:~~

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

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

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

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

~~(28) The following revisions shall be made to 49 C.F.R. 40.73:~~

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

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

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

~~(29) The following revisions shall be made to 49 C.F.R. 40.81:~~

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

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

~~(30) The following revisions shall be made to 49 C.F.R. 40.83:~~

~~(A) The term “DOT” shall be deleted and replaced with “commission.”~~

~~(B) Paragraph (b) shall be deleted.~~

~~(C) In paragraph (d), the phrase “§ 40.97(a)(3)” shall be deleted and replaced with “49 C.F.R. 40.97(a)(3) as adopted by K.A.R. 82-4-3b.”~~

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

~~(i) The phrase “in Step 4” shall be deleted.~~

~~(ii) In paragraph (e)(2), the phrase “§ 40.205(b)(1)” shall be deleted and replaced with “49 C.F.R. 40.205(b)(1) as adopted by K.A.R. 82-4-3b.”~~

~~(iii) In paragraph (e)(3), the phrase “§ 40.97(a)(3)” shall be deleted and replaced with “49 C.F.R. 40.97(a)(3) as adopted by K.A.R. 82-4-3b.”~~

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

~~(i) The phrase “§ 40.208” shall be deleted and replaced with “49 C.F.R. 40.208 as adopted by K.A.R. 82-4-3b.”~~

~~(ii) In paragraph (f)(2), the phrase “§ 40.97(a)” shall be deleted and replaced with “49 C.F.R. 40.97(a) as adopted by K.A.R. 82-4-3b.”~~

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

~~(i) The phrase “§ 40.45(a)” shall be deleted and replaced with “49 C.F.R. 40.45(a) as adopted by K.A.R. 82-4-3b.”~~

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

~~(iii) The phrase “§ 40.205(b)(2)” shall be deleted and replaced by “49 C.F.R. 40.205(b)(2) as adopted by K.A.R. 82-4-3b.”~~

~~(G) Paragraph (g)(2) shall be deleted.~~

~~(H) In paragraph (h), the phrase “§ 40.175(b)” shall be deleted and replaced with “49 C.F.R. 40.175(b) as adopted by K.A.R. 82-4-3b.”~~

~~(31) In 49 C.F.R. 40.85, the first two sentences shall be deleted and replaced by “The urine specimens shall be tested for only the following five drugs:”~~

~~(32) The following revisions shall be made to 49 C.F.R. 40.91:~~

~~(A) In the first sentence, the phrase “§ 40.89” shall be deleted and replaced with “49 C.F.R. 40.89 as adopted by K.A.R. 82-4-3b.”~~

~~(B) Paragraph (e) shall be deleted and replaced by the following: “If a substance which cannot be identified appears in a specimen, complete testing of the specimen for drugs to the extent technically feasible.”~~

~~(33) In 49 C.F.R. 40.99(b), the phrase “in accordance with HHS requirements” shall be deleted.~~

~~(34) In 49 C.F.R. 40.101(b), the words “the Department regards as creating” shall be deleted and replaced by “create.”~~

~~(35) The following revisions shall be made to 49 C.F.R. 40.103:~~

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

~~(B) In paragraph (c), the phrase “§ 40.93(b)” shall be deleted and replaced with “49 C.F.R. 40.93(b) as adopted by K.A.R. 82-4-3b.”~~

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

(D) In paragraph (c), the phrase “with a substance cited in HHS guidance” shall be deleted.

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

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

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

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

(38) In 49 C.F.R. 40.109(b), the phrase “§40.111” shall be deleted and replaced with “49 C.F.R. 40.111 as adopted by K.A.R. 82-4-3b.”

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

(A) In paragraph (a), the phrase “as in effect on October 1, 2011, and hereby adopted by reference,” shall be added after the term “Appendix B to 49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.”

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

(C) In paragraph (c), the phrase “§§ 40.329 and 40.331” shall be deleted and replaced by “49 C.F.R. 40.329 and 40.331 as adopted by K.A.R. 82-4-3b.”

(40) In 49 C.F.R. 40.113, the first sentence shall be deleted and replaced with “Other information concerning laboratories may be found in the following sections of 49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

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

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

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

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

~~(ii) The last sentence shall be deleted.~~

~~(C) In paragraph (c)(1)(iv), the term “DOT” shall be deleted and replaced by “approved.”~~

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

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

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

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

~~(42) The following revisions shall be made to 49 C.F.R. 40.123:~~

~~(A) In paragraph (b)(1), the phrase “§§ 40.199—40.203” shall be deleted and replaced with “49 C.F.R. 40.199 through 40.203 as adopted by K.A.R. 82-4-3b.”~~

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

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

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

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

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

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

~~(43) The following revisions shall be made to 49 C.F.R. 40.125:~~

~~(A) The term “Department” shall be deleted and replaced with “commission.”~~

~~(B) The phrase “§ 40.101(b)” shall be deleted and replaced with “49 C.F.R. 40.101(b) as adopted by K.A.R. 82-4-3b.”~~

~~(44) The following revisions shall be made to 49 C.F.R. 40.127:~~

~~(A) In paragraph (a), the phrase “§§ 40.199 and 40.203” shall be deleted and replaced with “49 C.F.R. 40.199 and 40.203 as adopted by K.A.R. 82-4-3b.”~~

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

~~(C) In paragraph (f), the phrase “§§ 40.163–40.167” shall be deleted and replaced with “49 C.F.R. 40.163 through 40.167 as adopted by K.A.R. 82-4-3b.”~~

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

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

~~(45) The following revisions shall be made to 49 C.F.R. 40.129:~~

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

~~(i) In paragraph (a)(1), the phrase “§§ 40.199 and 40.203” shall be deleted and replaced with “49 C.F.R. 40.199 and 40.203 as adopted by K.A.R. 82-4-3b.”~~

~~(ii) In paragraph (a)(4), the phrase “§ 40.133” shall be deleted and replaced with “49 C.F.R. 40.133 as adopted by K.A.R. 82-4-3b.”~~

(iii) In paragraph (a)(5), the phrase “~~§§ 40.135 through 40.145, 40.159, and 40.160~~” shall be deleted and replaced with “~~49 C.F.R. 40.135 through 40.145, 40.159, and 40.160 as adopted by K.A.R. 82-4-3b.~~”

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

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

(D) In paragraph (e), the phrase “~~§§ 40.163–40.167~~” shall be deleted and replaced with “~~49 C.F.R. 40.163 through 40.167 as adopted by K.A.R. 82-4-3b.~~”

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

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

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

(F) In paragraphs (g), (g)(1), and (g)(2), the phrase “~~§ 40.21~~” shall be deleted and replaced with “~~49 C.F.R. 40.21 as adopted by K.A.R. 82-4-3b.~~”

(46) In 49 C.F.R. 40.131(d), the phrase “~~§ 40.133(a)(2)~~” shall be deleted and replaced with “~~49 C.F.R. 40.133(a)(2) as adopted by K.A.R. 82-4-3b.~~”

(47) The following changes shall be made to 49 C.F.R. 40.133:

(A) In paragraph (a), the phrase “~~§§ 40.135–40.145~~” shall be deleted and replaced with “~~49 C.F.R. 40.135 through 40.145 as adopted by K.A.R. 82-4-3b.~~”

(B) In paragraph (b), the phrase “~~§ 40.159~~” shall be deleted and replaced with “~~49 C.F.R. 40.159 as adopted by K.A.R. 82-4-3b.~~”

(C) In paragraph (c), the phrase “§ 40.163” shall be deleted and replaced with “49 C.F.R. 40.163 as adopted by K.A.R. 82-4-3b” and the phrase “§ 40.159(a)(5)” shall be deleted and replaced with “49 C.F.R. 40.159(a)(5) as adopted by K.A.R. 82-4-3b.”

(48) The following revisions shall be made to 49 C.F.R. 40.135:

(A) In paragraph (d), the phrase “§ 40.327” shall be deleted and replaced by “49 C.F.R. 40.327 as adopted by K.A.R. 82-4-3b.”

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

(i) The phrase “§ 40.293(g)” shall be deleted and replaced with “49 C.F.R. 40.293(g) as adopted by K.A.R. 82-4-3b.”

(ii) The phrase “DOT, another Federal safety agency (e.g., the NTSB)” shall be deleted and replaced with “the commission, its special agent or authorized representative.”

(49) The following revisions shall be made to 49 C.F.R. 40.137:

(A) In paragraph (e)(2), the phrase “§ 40.151(f) and (g)” shall be deleted and replaced with “49 C.F.R. 40.151(f) and (g) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (e)(4), the phrase “§ 40.327” shall be deleted and replaced with “49 C.F.R. 40.327 as adopted by K.A.R. 82-4-3b.”

(50) The following revisions shall be made to 40.139:

(A) In paragraph (a), the phrase “§ 40.137” shall be deleted and replaced with “49 C.F.R. 40.137 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (b)(1)(iv), the phrase “§ 40.137(e)” shall be deleted and replaced with “49 C.F.R. 40.137(e) as adopted by K.A.R. 82-4-3b.”

(51) In 49 C.F.R. 40.140(d), the first instance of the term “ODAPC” shall be deleted and replaced with “commission,” and the second instance of the term “ODAPC” shall be deleted and replaced with “the commission.”

(52) 49 C.F.R. 40.145 shall be revised as follows:

(A) In paragraph (b), the phrase “§§ 40.129-40.135, 40.141, 40.151” shall be deleted and replaced with “49 C.F.R. 40.129 through 40.135, 40.141, 40.151 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (e)(2), the phrase “§ 40.93(b)” shall be deleted and replaced with “49 C.F.R. 40.93(b) as adopted by K.A.R. 82-4-3b.”

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

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

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

(F) In paragraph (h)(1), (h)(1)(ii), (h)(2), and (h)(2)(ii), the phrase “§ 40.93(b)” shall be deleted and replaced with “49 C.F.R. 40.93(b) as adopted by K.A.R. 82-4-3b.”

(53) The following revisions shall be made to 49 C.F.R. 40.149:

(A) In paragraph (a)(1), the phrase “§ 40.133(d)” shall be deleted and replaced with “49 C.F.R. 40.133(d) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (a)(4), the term “ODAPC” shall be deleted and replaced with “the commission.”

(C) In paragraph (b), the phrase “§§ 40.163-40.165” shall be deleted and replaced with “49 C.F.R. 40.163 through 40.165 as adopted by K.A.R. 82-4-3b.”

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

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

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

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

(55) In 49 C.F.R. 40.153(d), the phrase “§ 40.173” shall be deleted and replaced with “49 C.F.R. 40.173 as adopted by K.A.R. 82-4-3b.”

(56) The following revisions shall be made to 49 C.F.R. 40.155:

(A) In paragraph (b), the words “check the ‘dilute’ box (Step 6)” shall be deleted and replaced by “indicate that the specimen is dilute.”

(B) In paragraph (c), the phrase “§ 40.197” shall be deleted and replaced with “49 C.F.R. 40.197 as adopted by K.A.R. 82-4-3b.”

(57) The following revisions shall be made to 49 C.F.R. 40.159:

(A) In paragraph (a)(1), the phrase “§§ 40.91(e) and 40.96(e)” shall be deleted and replaced with “49 C.F.R. 40.91(e) and 40.96(e) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (a)(2), the phrase “§ 40.131” shall be deleted and replaced with “49 C.F.R. 40.131 as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (a)(3), the phrase “§§ 40.135(d) and 40.327” shall be deleted and replaced with “49 C.F.R. 40.135(d) and 40.327 as adopted by K.A.R. 82-4-3b.”

(D) In paragraphs (a)(4)(i) and (a)(5)(i), the words “Place a check mark in the ‘Test Cancelled’ box (Step 6)” shall be deleted and replaced by “Indicate that the test was cancelled.”

(E) In paragraph (a)(4)(iii), the phrase “§40.160” shall be deleted and replaced with “49 C.F.R. 40.160 as adopted by K.A.R. 82-4-3b.”

(F) In paragraph (c), the phrase “§ 40.163” shall be deleted and replaced with “49 C.F.R. 40.163 as adopted by K.A.R. 82-4-3b.”

(G) In paragraph (e)(4), the phrase “§ 40.160” shall be deleted and replaced with “49 C.F.R. 40.160 as adopted by K.A.R. 82-4-3b.”

(58) In 49 C.F.R. 40.160(a), the phrase “§ 40.159 (a)(5)(iii) and (e)(4)” shall be deleted and replaced with “49 C.F.R. 40.159(a)(5)(iii) and (e)(4) as adopted by K.A.R. 82-4-3b.”

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

(60) In 49 C.F.R. 40.162(c), the phrase “§ 40.159(f)” shall be deleted and replaced with “49 C.F.R. 40.159(f) as adopted by K.A.R. 82-4-3b.”

(61) The following revisions shall be made to 49 C.F.R. 40.163:

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

(B) In paragraph (g), the phrase “§ 40.293(g)” shall be deleted and replaced with “49 C.F.R. 40.293(g) as adopted by K.A.R. 82-4-3b.”

(62) In 49 C.F.R. 40.165, the phrase “§ 40.345” shall be deleted and replaced with “49 C.F.R. 40.345 as adopted by K.A.R. 82-4-3b” in both instances.

(63) The following revisions shall be made to 49 C.F.R. 40.167:

(A) In paragraph (b)(1), the phrase “§ 40.163” shall be deleted and replaced with “49 C.F.R. 40.163 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (c)(1), the phrase “§ 40.163(b) and (c)” shall be deleted and replaced with “49 C.F.R. 40.163(b) and (c) as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (e), the phrase “§ 40.149(c)” shall be deleted and replaced with “49 C.F.R. 40.149(c) as adopted by K.A.R. 82-4-3b.”

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

(65) In 49 C.F.R. 40.173(a), the phrase “§§ 40.175-40.185” shall be deleted and replaced with “49 C.F.R. 40.175 through 40.185 as adopted by K.A.R. 82-4-3b.”

(66) In 49 C.F.R. 40.175(e), the phrase “§ 40.83” shall be deleted and replaced with “49 C.F.R. 40.83 as adopted by K.A.R. 82-4-3b.”

(67) The following revisions shall be made to 49 C.F.R. 40.177:

(A) In paragraph (b), the phrase “§ 40.87” shall be deleted and replaced with “49 C.F.R. 40.87 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (c), the phrase “§ 40.91” shall be deleted and replaced with “49 C.F.R. 40.91 as adopted by K.A.R. 82-4-3b.”

(68) In 49 C.F.R. 40.179(a), the phrase “§ 40.95” shall be deleted and replaced with “49 C.F.R. 40.95 as adopted by K.A.R. 82-4-3b.”

(69) In 49 C.F.R. 40.181, the phrase “§ 40.93(b)” shall be deleted and replaced with “49 C.F.R. 40.93(b) as adopted by K.A.R. 82-4-3b.”

(70) In 49 C.F.R. 40.183(a), the words “checking the ‘Reconfirmed’ box or the ‘Failed to Reconfirm’ box (Step 5(b))” shall be deleted and replaced by “indicating whether the test was reconfirmed.”

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

(A) The following revisions shall be made to paragraphs (b)(1), (c)(1)(iii), (c)(2)(iii), and (e)(3):

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

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

(B) In paragraph (c)(2)(ii), the phrase “§ 40.145” shall be deleted and replaced with “49 C.F.R. 40.145 as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c)(2)(iv)(B), the phrase “§§ 40.153, 40.171, 40.173, 40.179, 40.181, and 40.185” shall be deleted and replaced with “49 C.F.R. 40.153, 40.171, 40.173, 40.179, 40.181, and 40.185 as adopted by K.A.R. 82-4-3b.”

(D) In paragraph (f)(3), the phrase “§ 40.163” shall be deleted and replaced with “49 C.F.R. 40.163 as adopted by K.A.R. 82-4-3b,” and the phrase “§ 40.167” shall be deleted and replaced with “49 C.F.R. 40.167 as adopted by K.A.R. 82-4-3b.”

(E) The following paragraph shall be added after paragraph (f)(3):

“(g) When there is a failure to reconfirm, the MRO shall inform the commission by telefacsimile, by electronic mail, or by mail. The following format shall be used to provide the information to the commission:

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

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

“(3) date of collection;

“(4) specimen identification number;

“(5) laboratory accession number;

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

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

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

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

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

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

~~“(12) actions taken by the MRO;~~

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

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

~~(72) In 49 C.F.R. 40.189, the first sentence shall be deleted and replaced with “Other information concerning split specimens can be found in the following sections of 49 C.F.R. Part 40, as adopted by this regulation:”.~~

~~(73) The following revisions shall be made to 49 C.F.R. 40.191:~~

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

~~(i) In paragraph (a)(1), the phrase “§ 40.61(a)” shall be deleted and replaced with “49 C.F.R. 40.61(a) as adopted by K.A.R. 82-4-3b.”~~

~~(ii) In paragraph (a)(2), the phrase “§ 40.63(c)” shall be deleted and replaced with “49 C.F.R. 40.63(c) as adopted by K.A.R. 82-4-3b.”~~

~~(iii) In paragraph (a)(3), the phrase “§ 40.63(c)” shall be deleted and replaced with “49 C.F.R. 40.63(c) as adopted by K.A.R. 82-4-3b.”~~

~~(iv) In paragraph (a)(4), the phrase “§§ 40.67(l) and 40.69(g)” shall be deleted and replaced with “49 C.F.R. 40.67(l) and 40.69(g), both as adopted by K.A.R. 82-4-3b.”~~

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

~~(vi) In paragraph (a)(6), the phrase “§ 40.197(b)” shall be deleted and replaced with “49 C.F.R. 40.197(b) as adopted by K.A.R. 82-4-3b.”~~

~~(vii) In paragraph (a)(7), the phrase “§ 40.193(d)” shall be deleted and replaced with “49 C.F.R. 40.193(d) as adopted by K.A.R. 82-4-3b.”~~

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

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

~~(74) The following revisions shall be made to 49 C.F.R. 40.193:~~

~~(A) In paragraph (b)(1), the phrase “§ 40.65(b) and (c)” shall be deleted and replaced with “49 C.F.R. 40.65(b) and (c) as adopted by K.A.R. 82-4-3b.”~~

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

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

~~(D) Paragraph (d)(2)(i) shall be deleted and replaced by “Indicate that the test was refused and note the reason.”~~

~~(E) In paragraph (g), the phrase “§40.195” shall be deleted and replaced with “49 C.F.R. 40.195 as adopted by K.A.R. 82-4-3b.”~~

~~(75) The following revisions shall be made to 49 C.F.R. 40.195:~~

~~(A) In paragraph (a)(1), the phrase “§ 40.193(d)” shall be deleted and replaced with “49 C.F.R. 40.193(d) as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (b)(1), the words “Check ‘Negative’ (Step 6)” shall be deleted and replaced by “Indicate that the results are negative.”~~

(C) In paragraphs (b) and (c), the phrase “§ 40.193(d)” shall be deleted and replaced with “49 C.F.R. 40.193(d) as adopted by K.A.R. 82-4-3b.”

(76) The following revisions shall be made to 49 C.F.R. 40.197:

(A) In paragraph (b)(1), the phrase “§ 40.155(e)” shall be deleted and replaced with “49 C.F.R. 40.155(e) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (b)(2)(i), the phrase “§ 40.67(b) and (c)” shall be deleted and replaced with “49 C.F.R. 40.67(b) and (c) as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c)(5), the phrase “DOT agency” shall be deleted and replaced with “commission.”

(77) The following revisions shall be made to 49 C.F.R. 40.199:

(A) In paragraph (a), the phrase “§ 40.83” shall be deleted and replaced with “40 C.F.R. 40.83 as adopted by K.A.R. 82-4-3b.”

(B) In paragraphs (b)(3) and (b)(4), the phrase “§ 40.83(g)” shall be deleted and replaced with “49 C.F.R. 40.83(g) as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c), the phrase “§ 40.161” shall be deleted and replaced with “49 C.F.R. 40.161 as adopted by K.A.R. 82-4-3b.”

(78) The following revisions shall be made to 49 C.F.R. 40.201:

(A) In paragraph (a), the phrase “§ 40.159” shall be deleted and replaced with “49 C.F.R. 40.159 as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (b), the phrase “§ 40.161” shall be deleted and replaced with “49 C.F.R. 40.161 as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c), the phrase “§ 40.187(b)” shall be deleted and replaced with “49 C.F.R. 40.187(b) as adopted by K.A.R. 82-4-3b.”

~~(D) In paragraph (d), the phrase “§ 40.187(e)(1)” shall be deleted and replaced with “49 C.F.R. 40.187(e)(1) as adopted by K.A.R. 84-2-3b.”~~

~~(E) In paragraph (e), the phrase “§ 40.187(e)” shall be deleted and replaced with “49 C.F.R. 40.187(e) as adopted by K.A.R. 82-4-3b.”~~

~~(F) In paragraph (f), the phrase “§ 40.193(d)(1)” shall be deleted and replaced with “49 C.F.R. 40.193(d)(1) as adopted by K.A.R. 82-4-3b.”~~

~~(79) The following revisions shall be made to 49 C.F.R. 40.203:~~

~~(A) In paragraph (a), the phrase “§ 40.83” shall be deleted and replaced with “49 C.F.R. 40.83 as adopted by K.A.R. 82-4-3b.”~~

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

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

~~(ii) The phrase “§ 40.205(b)(2)” shall be deleted and replaced with “49 C.F.R. 40.205(b)(2) as adopted by K.A.R. 82-4-3b.”~~

~~(iii) The last two sentences shall be deleted.~~

~~(80) The following revisions shall be made to 49 C.F.R. 40.205(b):~~

~~(A) In the first paragraph, the phrase “§ 40.203” shall be deleted and replaced with “49 C.F.R. 40.203 as adopted by K.A.R. 82-4-3b.”~~

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

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

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

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

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

~~(81) The following revisions shall be made to 49 C.F.R. 40.207:~~

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

~~(B) In paragraph (a)(3), the phrase “§§ 40.159(a)(5) and 40.187(b)(2), (c)(1), and (e)” shall be deleted and replaced with “49 C.F.R. 40.159(a)(5) and 40.187(b)(2), (c)(1), and (e), all as adopted by K.A.R. 82-4-3b.”~~

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

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

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

~~(82) The following revisions shall be made to 49 C.F.R. 40.208:~~

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

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

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

~~(B) Paragraph (c) shall be deleted.~~

~~(83) The following revisions shall be made to 49 C.F.R. 40.209:~~

~~(A) In paragraph (b)(3), the phrase “§ 40.33” shall be deleted and replaced with “49 C.F.R. 40.33 as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (b)(4), the phrase “§ 40.61(a)” shall be deleted and replaced with “49 C.F.R. 40.61(a) as adopted by K.A.R. 82-4-3b.”~~

(C) In paragraph (b)(5), the phrase “§ 40.121(a) through (b)” shall be deleted and replaced with “49 C.F.R. 40.121(a) through (b) as adopted by K.A.R. 82-4-3b,” and the phrase “§ 40.121(c) through (e)” shall be deleted and replaced with “49 C.F.R. 40.121(c) through (e) as adopted by K.A.R. 82-4-3b.”

(D) In paragraph (b)(7), the phrase “§ 40.41” shall be deleted and replaced with “49 C.F.R. 40.41 as adopted by K.A.R. 82-4-3b.”

(E) In paragraph (c), the phrase “DOT agency regulations or action under Subpart R of this part” shall be deleted and replaced with “commission regulation.”

(84) The following revisions shall be made to 49 C.F.R. 40.211:

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

(i) The words “this subpart” shall be deleted and replaced with “subpart J of 49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.”

(ii) The term “DOT” shall be deleted and replaced with “approved.”

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

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

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

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

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

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

(E) Paragraphs (d), (d)(1), (d)(2), and (e) shall be deleted and replaced by the following:

“All BAT’s and STT’s shall, no less frequently than every five years from the date on which they met the requirements of paragraphs (b) and (c), complete refresher training which meets the requirements of paragraphs (b) and (c).”

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

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

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

(87) The following revisions shall be made to 49 C.F.R. 40.221:

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

(B) In paragraph (b), the phrase “§ 40.223” shall be deleted and replaced with “49 C.F.R. 40.223 as adopted by K.A.R. 82-4-3b.”

(88) The following revisions shall be made to 49 C.F.R. 40.223:

(A) In paragraphs (a)(1) and (b), the phrase “DOT agency” shall be deleted and replaced by “special agent or authorized.”

(B) In paragraph (b), the phrase “§§ 40.241-40.255” shall be deleted and replaced with “49 C.F.R. 40.241 through 40.255 as adopted by K.A.R. 82-4-3b.”

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

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

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

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

~~“(B) ‘Copy 2 — Employee Retains’; and~~

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

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

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

~~“(i) The employee’s name;~~

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

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

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

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

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

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

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

- ~~“(ii) an indication of whether the technician is a BAT or STT;~~
- ~~“(iii) an indication of whether a saliva or breath device was used to conduct the test;~~
- ~~“(iv) an indication of whether there was a 15 minute wait;~~
- ~~“(v) the test number;~~
- ~~“(vi) the testing device name;~~
- ~~“(vii) the testing device lot number and expiration date, or serial number;~~
- ~~“(viii) the testing device activation time;~~
- ~~“(ix) the time the testing device was read;~~
- ~~“(x) the result indicated by the testing device;~~
- ~~“(xi) the results of any confirmation test;~~
- ~~“(xii) any additional remarks;~~
- ~~“(xiii) the alcohol technician’s company name, address, and telephone number;~~
- ~~“(xiv) the alcohol technician’s printed name;~~
- ~~“(xv) the date the alcohol technician signed the form.~~

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

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

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

~~(90) The following revisions shall be made to 49 C.F.R. 40.227:~~

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

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

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

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

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

~~(F) In paragraph (b), the phrase “§ 40.271(b)” shall be deleted and replaced with “49 C.F.R. 40.271(b) as adopted by K.A.R. 82-4-3b.”~~

~~(91) The following changes shall be made to 49 C.F.R. 40.229:~~

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

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

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

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

~~(92) In 49 C.F.R. 40.231(a), the last sentence shall be deleted.~~

~~(93) The following revisions shall be made to 49 C.F.R. 40.233:~~

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

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

(i) ~~In paragraph (c)(2), the words “as in effect on October 22, 2012, and appearing in Volume 77 of the Federal Register, beginning at page 64588, and hereby adopted by reference” shall be added after the phrase ““Calibrating Units for Breath Alcohol Tests.””~~

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

(iii) ~~In paragraph (c)(4), the term “§ 40.333(a)(2)” shall be deleted and replaced with “49 C.F.R. 40.333(a)(2) as adopted by K.A.R. 82-4-3b.”~~

(94) ~~The following revisions shall be made to 49 C.F.R. 40.235:~~

(A) ~~Paragraphs (a), (b) and (c) shall be deleted.~~

(B) ~~In paragraph (c), the phrase “§40.233” shall be deleted and replaced with “49 C.F.R. 40.233 as adopted by K.A.R. 82-4-3b.”~~

(95) ~~In 49 C.F.R. 40.241(b)(1), the phrase “a DOT” shall be deleted and replaced by “an approved.”~~

(96) ~~The following revisions shall be made to 49 C.F.R. 40.247:~~

(A) ~~In paragraph (a)(2), the phrase “§ 40.255” shall be deleted and replaced with “49 C.F.R. 40.255 as adopted by K.A.R. 82-4-3b.”~~

(B) ~~In paragraph (b)(1), the phrase “§ 40.251” shall be deleted and replaced with “49 C.F.R. 40.251 as adopted by K.A.R. 82-4-3b.”~~

(C) ~~In paragraph (b)(3)(ii), the phrase “§ 40.251(a)” shall be deleted and replaced with “49 C.F.R. 40.251(a) as adopted by K.A.R. 82-4-3b.”~~

(D) ~~In paragraph (c), the phrase “§ 40.271” shall be deleted and replaced with “49 C.F.R. 40.271 as adopted by K.A.R. 82-4-3b.”~~

(97) ~~The following revisions shall be made to 49 C.F.R. 40.251:~~

~~(A) In paragraph (a)(1)(i), the phrase “§ 40.247(b)(3)” shall be deleted and replaced with “49 C.F.R. 40.247(b)(3) as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (e), the phrase “§40.253” shall be deleted and replaced with “49 C.F.R. 40.253 as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraph (g), the phrase “DOT agency” shall be deleted and replaced by “commission.”~~

~~(98) In 49 C.F.R. 40.255(a)(4), the phrase “§ 40.271” shall be deleted and replaced with “49 C.F.R. 40.271 as adopted by K.A.R. 82-4-3b.”~~

~~(99) The following revisions shall be made to 49 C.F.R. 40.261:~~

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

~~(i) In paragraph (a)(1), the phrase “DOT agency” shall be deleted and replaced by “commission,” and the phrase “§ 40.241(a)” shall be deleted and replaced with “49 C.F.R. 40.241(a) as adopted by K.A.R. 82-4-3b.”~~

~~(ii) In paragraphs (a)(2) and (a)(3), the phrase “§ 40.243(a)” shall be deleted and replaced with “49 C.F.R. 40.243(a) as adopted by K.A.R. 82-4-3b.”~~

~~(iii) In paragraph (a)(3), the phrase “DOT agency” shall be deleted and replaced by “commission.”~~

~~(iv) In paragraphs (a)(4) and (a)(5), the phrase “§ 40.265(c)” shall be deleted and replaced with “49 C.F.R. 40.265(c) as adopted by K.A.R. 82-4-3b.”~~

~~(v) In paragraph (a)(6), the phrase “§§ 40.241(g) and 40.251(d)” shall be deleted and replaced with “49 C.F.R. 40.241(g) and 40.251(d), both as adopted by K.A.R. 82-4-3b.”~~

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

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

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

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

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

~~(100) The following revisions shall be made to 49 C.F.R. 40.265:~~

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

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

~~(101) The following revisions shall be made to 49 C.F.R. 40.267:~~

~~(A) The following revisions shall be made to paragraph (a)(1):~~

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

~~(ii) The phrase “§ 40.245(a)(8)” shall be deleted and replaced with “49 C.F.R. 40.245(a)(8) as adopted by K.A.R. 82-4-3b.”~~

~~(iii) The phrase “§ 40.245(b)(8)” shall be deleted and replaced with “49 C.F.R. 40.245(b)(8) as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (a)(2), the phrase “§ 40.245(a)(7)” shall be deleted and replaced with “49 C.F.R. 40.245(a)(7) as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraph (a)(3), the phrase “§ 40.245(a)(1)” shall be deleted and replaced with “49 C.F.R. 40.245(a)(1) as adopted by K.A.R. 82-4-3b,” and the phrase “§ 40.245(b)(1)” shall be deleted and replaced with “49 C.F.R. 40.245(b)(1) as adopted by K.A.R. 82-4-3b.”~~

(D) In paragraph (a)(4), the phrase “§ 40.245(b)(1)” shall be deleted and replaced with “49 C.F.R. 40.245(a)(1) as adopted by K.A.R. 82-4-3b.”

(E) In paragraph (b), the phrase “§ 40.253(c),(e) and (f)” shall be deleted and replaced with “49 C.F.R. 40.253(c), (e) and (f) as adopted by K.A.R. 82-4-3b.”

(F) In paragraph (c)(1), the phrase “§ 40.251(a)(1)” shall be deleted and replaced with “49 C.F.R. 40.251(a)(1) as adopted by K.A.R. 82-4-3b.”

(G) In paragraph (c)(2), the phrase “§ 40.253(a)” shall be deleted and replaced with “49 C.F.R. 40.253(a) as adopted by K.A.R. 82-4-3b.”

(H) In paragraph (c)(3), the phrase “§ 40.253(a)(1) and (2)” shall be deleted and replaced with “49 C.F.R. 40.253(a)(1) and (2) as adopted by K.A.R. 82-4-3b.”

(I) In paragraph (c)(4), the phrase “§ 40.253(f)” shall be deleted and replaced with “49 C.F.R. 40.253(f) as adopted by K.A.R. 82-4-3b.”

(J) In paragraph (c)(5), the phrase “§ 40.233(a)(1) and (c)(3)” shall be deleted and replaced with “49 C.F.R. 40.233(a)(1) and (c)(3) as adopted by K.A.R. 82-4-3b.”

(102) The following revisions shall be made to 49 C.F.R. 40.269:

(A) In paragraph (a), the phrase “§§ 40.247(a)(1) and 40.255(a)(1)” shall be deleted and replaced with “49 C.F.R. 40.247(a)(1) and 40.255(a)(1), both as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (b), the phrase “§ 40.255(a)(3)” shall be deleted and replaced with “49 C.F.R. 40.255(a)(3) as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (c), the term “a non-DOT” shall be deleted and replaced by “an unapproved,” and the phrase “§ 40.225(a)” shall be deleted and replaced with “49 C.F.R. 40.255(a) as adopted by K.A.R. 82-4-3b.”

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

~~(A) In paragraph (a)(1), the phrase “§ 40.267” shall be deleted and replaced with “49 C.F.R. 40.267 as adopted by K.A.R. 82-4-3b.”~~

~~(B) In paragraph (a)(2), the phrase “§ 40.213(c)” shall be deleted and replaced with “49 C.F.R. 40.213(c) as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraph (b), the phrase “§ 40.269” shall be deleted and replaced with “49 C.F.R. 40.269 as adopted by K.A.R. 82-4-3b.”~~

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

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

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

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

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

~~(104) The following revisions shall be made to 49 C.F.R. 40.273:~~

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

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

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

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

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

~~(105) In 49 C.F.R. 40.275(c), the phrase “DOT agency” shall be deleted and replaced by “commission.”~~

~~(106) In 49 C.F.R. 40.277, the phrase “this part” shall be deleted and replaced with “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.”~~

~~(107) The following revisions shall be made to 49 C.F.R. 40.281:~~

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

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

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

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

~~(iii) The last sentence shall be deleted.~~

~~(C) In paragraph (c)(1)(i), the word “Department” shall be deleted and replaced with “commission.”~~

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

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

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

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

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

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

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

~~(108) 49 C.F.R. 40.283 shall be deleted.~~

~~(109) The following revisions shall be made to 49 C.F.R. 40.285:~~

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

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

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

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

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

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

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

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

~~(110) In 49 C.F.R. 40.287, the term “DOT” shall be deleted and replaced by “commission.”~~

~~(111) The following revisions shall be made to 49 C.F.R. 40.289:~~

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

~~(B) In paragraph (b), the phrase “§ 40.281” shall be deleted and replaced with “49 C.F.R. 40.281 adopted by K.A.R. 82-4-3b.”~~

~~(112) The following revisions shall be made to 49 C.F.R. 40.293:~~

~~(A) In the first paragraph and in paragraphs (b) and (b)(1), the term “DOT” shall be deleted and replaced with “commission.”~~

~~(B) In paragraph (e), the phrase “§ 40.311(c)” shall be deleted and replaced with “49 C.F.R. 40.311(c) as adopted by K.A.R. 82-4-3b.”~~

~~(C) In paragraphs (f) and (f)(2), the term “DOT” shall be deleted and replaced with “commission.”~~

~~(113) In 49 C.F.R. 40.295(a), the term “DOT” shall be deleted and replaced by “commission.”~~

~~(114) The following revisions shall be made to 49 C.F.R. 40.301:~~

~~(A) In paragraph (a), the phrase “§ 40.293” shall be deleted and replaced with “49 C.F.R. 40.293 as adopted by K.A.R. 82-4-3b.”~~

(B) In paragraph (c)(1), the phrase “§ 40.311(d)” shall be deleted and replaced with “49 C.F.R. 40.311(d) as adopted by K.A.R. 82-4-3b.”

(C) In paragraph (d)(1), the phrase “§ 40.311(e)” shall be deleted and replaced with “49 C.F.R. 40.311(e) as adopted by K.A.R. 82-4-3b.”

(115) The following revisions shall be made to 49 C.F.R. 40.303:

(A) In paragraph (a), the phrase “§ 40.311(d)(10)” shall be deleted and replaced with “49 C.F.R. 40.311(d)(10) as adopted by K.A.R. 82-4-3b.”

(B) In paragraph (b), the phrase “§ 40.309” shall be deleted and replaced with “49 C.F.R. 40.309 as adopted by K.A.R. 82-4-3b.”

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

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

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

(B) In paragraph (b), the phrase “§ 40.311(d)(9)” shall be deleted and replaced with “49 C.F.R. 40.311(d)(9) as adopted by K.A.R. 82-4-3b.”

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

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

(A) In paragraph (a), the phrase “§ 40.355(e)” shall be deleted and replaced with “49 C.F.R. 40.355(e) as adopted by K.A.R. 82-4-3b.”

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

(C) In paragraph (g), the words “DOT agency representatives (e.g., inspectors conducting an audit or safety investigation) and representatives of the NTSB in an accident investigation” shall be deleted and replaced by “special agents and authorized representatives.”

(119) In paragraph 49 C.F.R. 40.313, the first sentence shall be deleted and replaced by “Other information on the role of functions of SAPs can be found in the following sections of 49 C.F.R. Part 40 as adopted by this regulation:”.

(120) The following revisions shall be made to 49 C.F.R. 40.321:

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

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

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

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

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

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

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

(ii) The phrase “§ 40.293(g)” shall be deleted and replaced with “49 C.F.R. 40.293(g) as adopted by K.A.R. 82-4-3b.”

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

(123) The following revisions shall be made to 49 C.F.R. 40.329:

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

(B) ~~In paragraph (c), the phrase “§ 40.311” shall be deleted and replaced with “49 C.F.R. 40.311 as adopted by K.A.R. 82-4-3b.”~~

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

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

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

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

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

(E) ~~In paragraph (f), the term “ODAPC” shall be deleted and replaced by “the commission,” and the phrase “§ 40.13” shall be deleted and replaced with “49 C.F.R. 40.13 as adopted by K.A.R. 82-4-3b.”~~

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

(A) ~~In paragraph (a)(2), the phrase “§ 40.25” shall be deleted and replaced with “49 C.F.R. 40.25 as adopted by K.A.R. 82-4-3b.”~~

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

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

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

(ii) ~~The last sentence shall be deleted.~~

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

~~(126) 49 C.F.R. 40.341 shall be deleted.~~

~~(127) In 49 C.F.R. 40.343, the term “DOT agency” shall be deleted and replaced by “commission.”~~

~~(128) The following revisions shall be made to 49 C.F.R. 40.345:~~

~~(A) In the first sentence of paragraph (b), the phrase “of this part” shall be deleted and replaced with “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b,” and the phrase “to this part” shall be deleted and replaced by “as in effect on October 1, 2011, and hereby incorporated by reference.”~~

~~(B) In paragraph (c), the phrase “§ 40.167” shall be deleted and replaced with “49 C.F.R. 40.167 as adopted by K.A.R. 82-4-3b.”~~

~~(129) The following revisions shall be made to 49 C.F.R. 40.347:~~

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

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

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

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

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

~~(130) The following revisions shall be made to 49 C.F.R. 40.349:~~

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

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

~~(131) In the first sentence of 49 C.F.R. 40.351, the phrase “this part” shall be deleted and replaced with “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.”~~

~~(132) In 49 C.F.R. 40.353(e), the term “DOT agency” shall be deleted and replaced by “commission.”~~

~~(133) The following revisions shall be made to 49 C.F.R. 40.355:~~

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

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

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

~~(ii) The last sentence shall be deleted.~~

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

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

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

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

~~(134) 49 C.F.R. 40.361 through 49 C.F.R. 40.413 shall be deleted.~~

~~(8) Subparts D through N shall be deleted.~~

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

~~(10) Subparts P through R shall be deleted.~~

~~(135) (11) In 49 C.F.R. Part 40, Appendix A through C, Appendix D, Appendix G, and Appendix H shall be deleted.~~

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

~~(b)~~(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2012 Supp. 66-1,129, as amended by L. 2013, ch. 14, sec. 3; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended P-_____.)

PROPOSED

82-4-3c. Testing for controlled substances and alcohol use. (a) With the following exceptions, 49 C.F.R. Part 382, as in effect on ~~January 30, 2012~~ October 1, 2015, is hereby adopted by reference:

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

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

(B) In paragraph (a)(1), the phrase “part 383 of this subchapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

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

~~(D) Following paragraph (a)(3), delete the period, add a semicolon, and insert the following: “or (4) the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”~~

~~(E)~~(D) In paragraph (c), the phrase “§ 390.3(f) of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.3(f), as adopted by K.A.R. 82-4-3f.”

~~(F) Paragraph (d)(1) shall be deleted.~~

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

~~(H)~~(F) ~~49 C.F.R. 382.103(d)(3) shall be deleted. In paragraph (d)(3), the phrase “a State” shall be deleted and replaced by “the state of Kansas.” The phrase “part 383 of this subchapter” shall be deleted and replaced by “the Kansas uniform commercial drivers’ license act.” The text “These individuals may be:” shall be deleted.~~

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

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

(2) ~~The following changes shall be made to~~ In 49 C.F.R. 382.105, the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

(A) ~~The phrase “under this part” shall be deleted and replaced with “under 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

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

(C) ~~The phrase “in this part” shall be deleted and replaced with “in 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

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

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

(B) ~~In the definition of “actual knowledge,” the following revisions shall be made:~~

(i) ~~The phrase “Subpart B of this part” shall be deleted and replaced with “Subpart B of 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

(ii) ~~The phrase “§ 382.121” shall be deleted and replaced with “49 C.F.R. 382.121 as adopted by K.A.R. 82-4-3e.”~~

(iii) ~~The phrase “§ 382.307” shall be deleted and replaced with “49 C.F.R. 382.307 as adopted by K.A.R. 82-4-3e.”~~

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

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

~~(D)~~(C) The phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “(49 C.F.R. part 172, subpart F)” in the definition of commercial motor vehicle.

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

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

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

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

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

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

~~(I) The following revisions shall be made to the definition of “refuse to submit”:~~

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

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

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

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

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

~~(vi) (v) In paragraph (7), of the definition of “refuse to submit,” the phrase “§ 40.193(d) of this title” shall be deleted and replaced by “49 C.F.R. 40.193(d), as adopted by K.A.R. 82-4-3b.”~~

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

~~(i) (G)(i) In paragraph (2) of the definition of “safety-sensitive function,” the phrase “§§ 392.7 and 392.8 of this subchapter” shall be deleted and replaced by “49 C.F.R. 392.7 and 392.8, as adopted by K.A.R. 82- 4-3h.”~~

(ii) In paragraph (4) of the definition of “safety-sensitive function,” the phrase “§ 393.76 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.76, as adopted by K.A.R. 82-4-3i.”

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

(5) 49 C.F.R. 382.117 shall be deleted.

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

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

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

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

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

~~(E) Paragraph (e) shall be deleted.~~

(7) ~~The following revisions shall be made to 49 C.F.R. 382.121:~~ In 49 C.F.R. 382.121(a), the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.”

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

~~(B) In paragraph (b)(5), the phrase “Non-DOT” shall be deleted and replaced with “unapproved.”~~

~~(8) In 49 C.F.R. 382.209, the phrase “§ 382.303” shall be deleted and replaced with “49 C.F.R. 382.303 as adopted by K.A.R. 82-4-3e.”~~

~~(9) The following revisions shall be made to 49 C.F.R. 382.211:~~

~~(A) The phrase “§ 382.301” shall be deleted and replaced with “49 C.F.R. 382.301 as adopted by K.A.R. 82-4-3e.”~~

~~(B) The phrase “§ 382.303” shall be deleted and replaced with “49 C.F.R. 382.303 as adopted by K.A.R. 82-4-3e.”~~

~~(C) The phrase “§ 382.305” shall be deleted and replaced with “49 C.F.R. 382.305 as adopted by K.A.R. 82-4-3e.”~~

~~(D) The phrase “§ 382.307” shall be deleted and replaced with “49 C.F.R. 382.307 as adopted by K.A.R. 82-4-3e.”~~

~~(E) The phrase “§ 382.309” shall be deleted and replaced with “49 C.F.R. 382.309 as adopted by K.A.R. 82-4-3e.”~~

~~(F) The phrase “§ 382.311” shall be deleted and replaced with “49 C.F.R. 382.311 as adopted by K.A.R. 82-4-3e.”~~

~~(10)(8) The following revisions shall be made to 49 C.F.R. 382.213:~~

(A) ~~In paragraph (a), the text “as in effect on April 1, 2011, which is hereby adopted by reference” shall be added after the phrase “21 C.F.R. 1308.11 Schedule I.”~~ In paragraph (a), the phrase “21 CFR 1308.11 Schedule I” shall be deleted and replaced by “21 C.F.R. 1308.11 Schedule I.”

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

~~(i) The text “non-Schedule I drug or substance that is identified in the other Schedules in 21 C.F.R. part 1308” shall be deleted and replaced with “substances not identified in 21 C.F.R. 1308.11 as adopted by K.A.R. 82-4-3e or substance that is identified in 21 C.F.R. 1308.12 through 1308.15 as in effect on April 1, 2011, which are hereby adopted by reference.”~~

~~(ii) The phrase “§ 382.107” shall be deleted and replaced with “49 C.F.R. 382.107 as adopted by K.A.R. 82-4-3e.”~~

~~(11)(9)~~ The following revisions shall be made to 49 C.F.R. 382.301:

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

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

~~(C) In paragraph (c)(1)(vi), the phrase “Subpart B of this part” shall be deleted and replaced with “Subpart B of 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

~~(D)(B)~~ In paragraph (c)(2), the phrase “§ 382.401” shall be deleted and replaced with “49 C.F.R. 382.401 as adopted by K.A.R. 82-4-3e,” and the phrase “part 40 of this title” shall be deleted and replaced by “49 C.F.R. Part 40, as adopted by K.A.R. 82-4-3b.”

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

~~(12)~~(10) The following revisions shall be made to 49 C.F.R. 382.303: In 49 C.F.R. 382.303(h)(3), the phrase “§ 177.823 of this title” shall be deleted and replaced by “49 C.F.R. 177.823 as adopted by K.A.R. 82-4-20.”

(A) In paragraphs (d)(1) and (d)(2), the phrase “FMCSA” shall be deleted and replaced with “commission.”

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

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

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

(13) The following revisions shall be made to 49 C.F.R. 382.305:

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

(B) In paragraph (o)(1) the term “DOT covered” shall be deleted.

(C) In paragraphs (o) and (o)(2), the phrase “DOT agency” shall be deleted and replaced by “USDOT or state agency.”

(14) The following revisions shall be made to 49 C.F.R. 382.307:

(A) In paragraphs (a) and (b), the phrase “subpart B of this part” shall be deleted and replaced with “subpart B of 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3c.”

(B) In paragraph (c), the phrase “§ 382.603” shall be deleted and replaced with “49 C.F.R. 382.603 as adopted by K.A.R. 82-4-3c.”

~~(15)~~(11) In 49 C.F.R. 382.309 and 382.311, the phrase “49 CFR part 40, Subpart O” shall be deleted and replaced by “49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b.”

~~(16)~~(12) The following revisions shall be made to 49 C.F.R. 382.401:

(A) In paragraph (b)(1)(vii), the phrase “~~§ 382.403~~” shall be deleted and replaced with “~~49 C.F.R. 382.403 as adopted by K.A.R. 82-4-3e.~~”

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

(C) In paragraph (c)(1)(viii), the phrase “~~§ 382.403~~” shall be deleted and replaced with “49 C.F.R. 382.403 as adopted by K.A.R. 82-4-3e.”

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

(E) In paragraph (c)(2)(vi)(A), the phrase “~~§ 382.301~~” shall be deleted and replaced with “49 C.F.R. 382.301 as adopted by K.A.R. 82-4-3e.”

(F) In paragraph (c)(2)(vi)(B), the phrase “~~§ 382.413~~” shall be deleted and replaced with “49 C.F.R. 382.413 as adopted by K.A.R. 82-4-3e.”

(G) In paragraph (c)(5)(ii), the phrase “~~§ 382.601~~” shall be deleted and replaced with “49 C.F.R. 382.601 as adopted by K.A.R. 82-4-3e.”

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

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

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

~~(i)~~(E) In paragraph (d), the phrase “~~§ 390.31-390.29~~ of this subchapter” shall be deleted and replaced by “49 C.F.R. ~~390.31-390.29~~, as adopted by K.A.R. 82-4-3f.”

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

~~(K)~~(F) Paragraph (e) shall be deleted.

~~(17)~~ (13) In 49 C.F.R. 382.403 shall be revised as follows: (b), the phrase “49 CFR part 40” shall be deleted and replaced by “49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b.” The phrase “§ 40.26 and appendix H to part 40” shall be deleted and replaced by “49 C.F.R. 40.26 as adopted by K.A.R. 82-4-3b.”

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

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

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

(ii) The phrase “§ 40.26” shall be deleted and replaced by “K.A.R. 82-4-3b(a)(12).”

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

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

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

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

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

~~(18)~~(14) The following revisions shall be made to 49 C.F.R. 382.405:

(A) In paragraph (a), the phrase “§ 382.401” shall be deleted and replaced with “49 C.F.R. 382.401 as adopted by K.A.R. 82-4-3c.”

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

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

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

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

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

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

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

(21)(17) The following revisions shall be made to 49 C.F.R. 382.501: In 49 C.F.R. 382.501(c), the phrase “part 390 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 390 as adopted by K.A.R. 82-4-3f.”

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

(i) The phrase “subpart F of this part” shall be deleted and replaced with “49 C.F.R. Part 382 Subpart F as adopted by K.A.R. 82-4-3c.”

(ii) ~~The phrase “subpart B of this part” shall be deleted and replaced with “49 C.F.R. Part 382 Subpart B as adopted by K.A.R. 82-4-3e.”~~

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

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

(i) ~~The phrase “§ 382.107” shall be deleted and replaced with “49 C.F.R. 382.107 as adopted by K.A.R. 82-4-3e.”~~

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

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

(A) ~~The phrase “subpart B of this part” shall be deleted and replaced with “Subpart B of 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

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

(23) ~~In 49 C.F.R. 382.505(a), the phrase “subpart C of this part” shall be deleted and replaced with “Subpart C of 49 C.F.R. Part 382 as adopted by K.A.R. 82-4-3e.”~~

(24)(19) ~~49 C.F.R. 382.507 shall be deleted.~~

(25)(20) ~~The following revisions shall be made to 49 C.F.R. 382.601: In 49 C.F.R. 382.601(b)(9), the phrase “part 40, Subpart O, of this title” shall be deleted and replaced by “49 C.F.R. Part 40, Subpart O, as adopted by K.A.R. 82-4-3b.”~~

(A) ~~In paragraphs (b)(5) and (b)(6), the phrase “§ 382.303(d)” shall be deleted and replaced with “49 C.F.R. 382.303(d) as adopted by K.A.R. 82-4-3e.”~~

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

(26) In 49 C.F.R. 382.603, the phrase “§ 382.307” shall be deleted and replaced with “49 C.F.R. 382.307 as adopted by K.A.R. 82-4-3e.”

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

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

(b)(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2012 Supp. 66-1,129, as amended by L. 2013, ch. 14, sec. 3; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended P-_____.)

82-4-3d. Safety fitness procedures. (a) With the following exceptions, 49 C.F.R. Part 385, as in effect on ~~December 27, 2014~~ October 1, 2015, is hereby adopted by reference:

(1) ~~The following revisions shall be made to 49 C.F.R. 385.1:~~ 49 C.F.R. 385.1(a) and (b) shall be deleted.

(A) ~~Paragraphs (a) and (b) shall be deleted.~~

(B) ~~In paragraph (c), the phrase “§ 385.403” shall be deleted and replaced with “49 C.F.R. 385.403 as adopted by K.A.R. 82-4-3d.”~~

(C) ~~In paragraphs (d) and (e), the phrase “of this part” shall be deleted and replaced with “49 C.F.R. Part 385 as adopted by K.A.R. 82-4-3d.”~~

(D) ~~In paragraph (e), the phrase “Federal Motor Carrier Safety Regulations (FMCSRs)” shall be deleted and replaced with “commission regulations.”~~

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

(A) ~~The following revisions shall be made to the definition of “applicable safety regulations or requirements”:~~ In the definition of “Applicable safety regulations or requirements,”

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

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

(iii) ~~The phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “49 C.F.R. chapter I, subchapter C — Hazardous Materials Regulations.”~~

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

(C) In the definition of “commercial motor vehicle,” the phrase “§ 390.5 of this subchapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f,” and the phrase “of this part” shall be deleted and replaced with “of 49 C.F.R. Part 385 as adopted by K.A.R. 82-4-3d.”

(D) The definition of “FMCSRs” shall be deleted.

~~(E)~~ In the definition of “HMRs,” the phrase “as adopted by K.A.R. 82-4-20” shall be inserted after the phrase “49 C.F.R. parts ~~100-178~~ 171-180.”

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

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

~~(i)~~ In paragraph (1), the last sentence shall be deleted.

~~(i)~~ In paragraph (2), the term “FMCSRs” shall be deleted and replaced with “commission regulations.”

~~(H)~~ In the definition of “roadability review,” the term “FMCSRs” shall be deleted and replaced with “commission regulations.”

~~(I)~~ In the definition of “safety fitness determination,” the phrase “§385.5” shall be deleted and replaced with “49 C.F.R. 385.5 as adopted by K.A.R. 82-4-3d.”

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

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

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

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

(B) In paragraph (a)(1), the phrase “part 383 of this chapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(C) In paragraph ~~(a)(2)~~ (b), the phrase “part 387 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 387 as adopted by K.A.R. 82-4-3n.”

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

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

(F) In paragraph ~~(a)(5)~~ (e), the phrase “part 393 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 393 as adopted by K.A.R. 82-4-3i.”

(G) In paragraph ~~(a)(6)~~ (f), the phrase “part 390 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 390 as adopted by K.A.R. 82-4-3f.”

(H) In paragraph ~~(a)(7)~~ (g), the phrase “part 395 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 395 as adopted by K.A.R. 82-4-3a.”

(I) In paragraph ~~(a)(8)~~ (h), the phrase “part 396 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 396 as adopted by K.A.R. 82-4-3j.”

(J) In paragraph ~~(a)(9)~~ (i), the phrase “part 397 of this chapter” shall be deleted and replaced with “49 C.F.R. Part 397 as adopted by K.A.R. 82-4-3k.”

(K) In paragraph ~~(a)(10)~~ (j), the phrase “parts 170 through 177 of this title” shall be deleted and replaced with “49 C.F.R. Parts 170 through 177 as adopted by K.A.R. 82-4-20.”

~~(L) In paragraph (a)(11), the phrase “§ 390.5 of this chapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”~~

~~(M) Paragraph (b) shall be deleted.~~

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

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

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

~~(8) The following revisions shall be made to 49 C.F.R. 385.201:~~

~~(A) In paragraph (a), the phrase “§ 385.203(b)” shall be deleted and replaced with “49 C.F.R. 385.203(b) as adopted by K.A.R. 82-4-3d.”~~

~~(B) In paragraph (b), the phrase “§ 385.203(a)” shall be deleted and replaced with “49 C.F.R. 385.203(a) as adopted by K.A.R. 82-4-3d.”~~

~~(9) In 49 C.F.R. 385.203(a), the phrase “§ 385.201(a)” shall be deleted and replaced with “49 C.F.R. 385.201(a) as adopted by K.A.R. 82-4-3d.”~~

~~(10) In 49 C.F.R. 385.205, the phrase “§ 385.203(a) and (b)” shall be deleted and replaced with “49 C.F.R. 385.203(a) and (b) as adopted by K.A.R. 82-4-3d.”~~

~~(11)(8) In 49 C.F.R. 385.301(e), the last sentence through 385.337 shall be deleted.~~

~~(12) In 49 C.F.R. 385.331, the phrase “49 U.S.C. 521(b)(2)(A) for each offense as adjusted for inflation by 49 C.F.R. part 386, appendix B” shall be deleted and replaced with “K.S.A. 66-1,129a, and K.S.A. 66-1,142b.”~~

~~(13) The following changes shall be made to 49 C.F.R. 385.333:~~

~~(A) The phrase “or the commission in cooperation with the FMCSA” shall be added after each occurrence of the phrase “The FMCSA.”~~

~~(B) In paragraph (a), the phrase “§ 385.325(b)” shall be deleted and replaced with “49 C.F.R. 385.325(b) as adopted by K.A.R. 82-4-3d,” and the phrase “§ 385.319(e)” shall be deleted and replaced with “49 C.F.R. 385.319(e) as adopted by K.A.R. 82-4-3d.”~~

~~(C) In paragraph (b), the phrase “§ 385.13” shall be deleted and replaced with “49 C.F.R. 385.13 as adopted by K.A.R. 82-4-3d.”~~

~~(D) In paragraphs (c) and (d)(2), the phrase “§ 385.319(e)” shall be deleted and replaced with “49 C.F.R. 385.319(e) as adopted by K.A.R. 82-4-3d.”~~

~~(14) In 49 C.F.R. 385.335, the term “FMCSA” shall be deleted and replaced by “the commission.”~~

~~(15) In 49 C.F.R. 385.337, the phrase “or the commission in cooperation with the FMCSA” shall be added after the term “FMCSA.”~~

~~(16) In 49 C.F.R. 305.401(a), the phrase “§ 385.403” shall be deleted and replaced with “49 C.F.R. 385.403 as adopted by K.A.R. 82-4-3d.”~~

~~(17) The following changes shall be made to 49 C.F.R. 385.402:~~

~~(A) Paragraph (a) shall be deleted and replaced with the following: “The definitions in 49 C.F.R. Parts 390 and 385, as adopted by K.A.R. 82-4-3f and 82-4-3d, respectively, shall apply to Subpart E of 49 C.F.R. Part 385, as adopted by K.A.R. 82-4-3d, unless otherwise specifically noted.”~~

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

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

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

~~(18) The following revisions shall be made to 49 C.F.R. 385.403:~~

~~(A) In the first paragraph, the phrase “§ 390.19(a)” shall be deleted and replaced with “49 C.F.R. 390.19(a) as adopted by K.A.R. 82-4-3f.”~~

~~(B) In paragraph (a), the phrase “§ 173.403 of this title” shall be deleted and replaced by “49 C.F.R. 173.403 as adopted by K.A.R. 82-4-20.”~~

~~(C) In paragraph (b), the phrase “part 172 of this title” shall be deleted and replaced with “49 C.F.R. Part 172 as adopted by K.A.R. 82-4-20.”~~

~~(D) The following revisions shall be made to paragraphs (c) and (d):~~

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

~~(ii) The phrase “§ 173.116(a) or § 173.133(a) of this title” shall be deleted and replaced with “49 C.F.R. 173.116(a) or 173.133(a) as adopted by K.A.R. 82-4-20.”~~

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

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

(ii) ~~The phrase “§ 173.116(a)” shall be deleted and replaced with “49 C.F.R. 173.116(a) as adopted by K.A.R. 82-4-20.”~~

(19) ~~The following shall be inserted after the last sentence in 49 C.F.R. 385.405(b): “All Kansas-based interstate motor carriers and all Kansas intrastate motor carriers transporting hazardous materials are required to obtain a hazardous materials safety permit from the FMCSA and are subject to FMCSA jurisdiction for hazardous materials safety requirements as set forth in 49 C.F.R. 385.401 through 385.423, and in 49 C.F.R. Parts 171, 172, 173, 177, 178 and 180, as adopted by K.A.R. 82-4-20.”~~

(20) ~~49 C.F.R. 385.407 through 49 C.F.R. 385.411 shall be deleted.~~

(21) ~~In 49 C.F.R. 385.413(b), the second parenthetical text shall be deleted.~~

(22)(9) ~~49 C.F.R. 385.415 through 49 C.F.R. 385.819, including appendix A, shall be deleted. 49 C.F.R. 385.401 through 385.1019, including appendices A and B, shall be deleted.~~

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

~~(b)(c)~~ Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2012 Supp. 66-1,129, as amended by L. 2013, ch. 14, sec. 3; implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2012 Supp. 66-1,129, as amended by L. 2013, ch. 14, sec. 3, and K.S.A. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective

April 29, 2005; amended Oct. 2, 2009; amended Oct. 22, 2010; amended Sept. 20, 2013;
amended P-_____.)

PROPOSED

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, ~~2013~~ 2015 and as amended by 81 fed. reg. 47720 (2016) and the portions of 82 fed. reg. 5318 (2017) pertaining to subpart E, is hereby adopted by reference:

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

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

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

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

(B) Paragraph (b) shall be deleted and replaced with the following: “The Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq., is applicable to every person who operates a commercial motor vehicle, ~~as defined in K.A.R. 82-4-1,~~ in interstate or intrastate commerce and to all employers of such persons.”

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

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

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

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

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

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

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

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

~~(I) In paragraph (f)(1), the phrase “§ 390.5, except for the provisions of §§ 391.15(f), 392.80, and 392.82 of this chapter” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f, except for the provisions of 49 C.F.R. 391.15(f) as adopted by K.A.R. 82-4-3g and 49 C.F.R. 392.80 and 392.82 as adopted by K.A.R. 82-4-3h.”~~

~~(J) In paragraph (f)(6), the phrase “§§ 390.15, 390.19, 390.21(a) and (b)(2), 391.15(e) and (f), 392.80 and 392.82 of this chapter” shall be deleted and replaced with “49 C.F.R. 390.15, 390.19, 390.21(a) and (b)(2), as adopted by K.A.R. 82-4-3f, 49 C.F.R. 391.15(e) and (f) as adopted by K.A.R. 82-4-3g, and 49 C.F.R. 392.80 and 392.82 as adopted by K.A.R. 82-4-3h.”~~

~~(K) In paragraph (f)(7), the phrase “§ 390.5” shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”~~

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

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

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

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

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

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

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

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

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

~~(iv) Paragraph (3) shall be deleted and replaced with “49 C.F.R. Part 390 as adopted by K.A.R. 82-4-3f, except 49 C.F.R. 390.15(b) as adopted by K.A.R. 82-4-3f concerning accident registers.”~~

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

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

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

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

(B) The following definitions shall be deleted:

(i) Conviction;

(ii) ~~driveaway towaway operation;~~

~~(iii)~~ exempt motor carrier;

~~(iv)~~ hazardous waste;

~~(v)~~ operator;

~~(vi)~~ other terms;

~~(vii)~~(iii) secretary;

~~(viii)~~(iv) state; and

~~(ix)~~(v) United States.

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

~~(D)~~ In the definition of “covered farm vehicle,” each instance of the phrase “§ 390.39” shall be deleted and replaced with “49 C.F.R. 390.39 as adopted by K.A.R. 82-4-3f.”

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

~~(F)~~(E) In the definition of “exempt intracity zone,” the following text shall be deleted: “of a municipality or the commercial zone of that municipality described in appendix F to subchapter B of this chapter. The term ‘exempt intracity zone’ does not include any municipality or commercial zone in the State of Hawaii.” The deleted text shall be replaced by the following: “described in section 8 of 49 C.F.R. Subtitle B, Chapter III, Subchapter B, Appendix F, as adopted by K.A.R. 82-4-3f.” The phrase “§ 391.62” shall be deleted and replaced with “49 C.F.R. 391.62 as adopted by K.A.R. 82-4-3g.”

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

~~(H)~~ 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.”

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

~~(J)~~ 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 “for-hire motor carrier,” the term “for-hire” shall have the same meaning as that for the term “public.”

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

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

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

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

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

~~(M)~~ 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.”

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

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

~~(P)~~ 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.”

~~(Q)~~ 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.”

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

~~(S)~~ 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.”

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

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

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

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

~~(U)~~ 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.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(16) the total number of drivers; and

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

(D) In paragraph (d), the term “agency’s” shall be deleted and replaced by “FMCSA’s.” The following sentence shall be inserted after the last sentence in paragraph (d): “Kansas-based motor carriers may file the completed Form MCS-150 online at fmcsa.dot.gov or with the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

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

(F) Paragraph (h) shall be deleted.

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

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

~~(B)~~ In paragraph (b)(1), the phrase “§ 390.19” shall be deleted and replaced with “49 C.F.R. 390.19 as adopted by K.A.R. 82-4-3f.”

~~(C)~~(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.”

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

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

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

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

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

~~(B)~~ In paragraph (a)(1)(ii), the phrase “§ 390.25” shall be deleted and replaced by “49 C.F.R. 390.25 as adopted by K.A.R. 82-4-3f.”

~~(C)~~(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.”

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

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

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

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

~~(ii) (B) 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)~~(12) The following revisions shall be made to 49 C.F.R. 390.35:

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

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

~~(14)~~(13) 49 C.F.R. 390.37 shall be deleted.

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

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

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

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

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

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

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

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

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

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

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

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

~~(F)~~(E) Paragraph (b) shall be deleted.

~~(G)~~(F) Paragraph (c) shall be deleted.

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

~~(A)~~ In paragraph (a), the phrase “§ 390.19” shall be deleted and replaced with “49 C.F.R. 390.19 as adopted by K.A.R. 82-4-3f.”

~~(B)~~ In paragraph (b), the phrase “§ 390.21” shall be deleted and replaced with “49 C.F.R. 390.21 as adopted by K.A.R. 82-4-3f.”

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

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

~~(E)~~(C) In paragraph (f), the phrase “§ 396.3(b)(3) of this chapter” shall be deleted and replaced with “49 C.F.R. 396.3(b)(3) as adopted by K.A.R. 82-4-3j.”

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

~~(G)~~(E) In paragraph (j), the phrase “as defined in § 386.72(b)(1) of this chapter” shall be deleted and replaced with “as defined in K.A.R. 82-4-3o.”

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

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

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

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

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

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

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

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

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

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

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

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

(ii) The phrase “49 U.S.C. 31151 or the implementing regulations in this subchapter regarding interchange of intermodal equipment by contacting the appropriate FMCSA Field Office” shall be deleted and replaced by “K.A.R. 82-4-3a through K.A.R. 82-4-3o and K.A.R. 82-4-20 by filing a written complaint with the commission by: fax— 785-271-3124; email: trucking_complaint_questions@kcc.ks.gov transportation@kcc.ks.gov; or by mail addressed to: 1500 SW Arrowhead Rd, Topeka, KS 66604-3124. The commission may also be contacted by phone number: 785.271.3145, select option one.”

(19) 49 C.F.R. 390.46 shall be deleted.

(20) 49 C.F.R. Part 390, Subpart D shall be deleted.

~~(21) 49 C.F.R. Part 390, Subpart E shall be deleted.~~

(b) Section 8 of 49 C.F.R., ~~Subtitle B~~, Chapter III, Subchapter B, Appendix F, as in effect on October 1, ~~2013~~ 2015, is hereby adopted by reference.

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

~~(e)~~(d) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. ~~2014 Supp.~~ 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2014 Supp.~~ 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Oct. 8, 2010; amended Nov. 14, 2011; amended Sept. 20, 2013; amended June 12, 2015; amended P-_____.)

82-4-3g. Qualifications of drivers. (a) With the following exceptions, 49 C.F.R. Part 391, as in effect on October 1, ~~2013~~ 2015 and as amended by 81 fed. reg. 47720 (2016), is hereby adopted by reference:

(1) ~~In 49 C.F.R. 391.1, the phrase “this part” shall be deleted and replaced with “49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.”~~

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

(A) ~~In paragraph (a), the phrase “§ 391.15(e)” shall be deleted and replaced with “49 C.F.R. 391.15(e) as adopted by K.A.R. 82-4-3g.”~~

(B) ~~In paragraph (b), the phrase “§ 391.15(e) and (f)” shall be deleted and replaced with “49 C.F.R. 391.15(e) and (f) as adopted by K.A.R. 82-4-3g.”~~

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

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

(i) ~~The phrase “§ 391.15(e) and (f)” shall be deleted and replaced with “49 C.F.R. 391.15(e) and (f) as adopted by K.A.R. 82-4-3g.”~~

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

(iii) ~~The phrase “§ 391.67” shall be deleted and replaced with “49 C.F.R. 391.67 as adopted by K.A.R. 82-4-3g.”~~

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

(i) The phrase “~~part 391, Subpart E~~” shall be deleted and replaced with “49 C.F.R. Part 391, Subpart E as adopted by K.A.R. 82-4-3g.”

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

(3)(2) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.11:

(A) In paragraph (a), the phrase “~~§ 391.63~~” shall be deleted and replaced with “49 C.F.R. 391.63 as adopted by K.A.R. 82-4-3g.”

(B) In paragraph (b), the phrase “~~subpart G of this part~~” shall be deleted and replaced with “~~Subpart G of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.~~”

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

(D) In paragraph (b)(4), the phrase “~~subpart E Physical Qualifications and Examinations of this part~~” shall be deleted and replaced with “~~Subpart E of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.~~”

(E) In paragraph (b)(6), the phrase “~~§ 391.27~~” shall be deleted and replaced with “49 C.F.R. 391.27 as adopted by K.A.R. 82-4-3g.”

(F) In paragraph (b)(7), the phrase “~~§ 391.15~~” shall be deleted and replaced with “49 C.F.R. 395.15 as adopted by K.A.R. 82-4-3g.”

(G) In paragraph (b)(8), the phrase “~~§ 391.31~~” shall be deleted and replaced with “49 C.F.R. 391.31 as adopted by K.A.R. 83-4-3g,” and the phrase “~~§ 391.33~~” shall be deleted and replaced with 49 C.F.R. 391.33 as adopted by K.A.R. 82-4-3g.”

~~(4)~~(3) In 49 C.F.R. 391.13, the phrase “§§ 392.9(a) and ~~393.9~~ 383.111(a)(16) of this subchapter” shall be deleted and replaced by “49 C.F.R. 392.9(a), as adopted by K.A.R. 82-4-3h, and 49 C.F.R. ~~393.9~~ 383.111(a)(16), as ~~adopted~~ referenced by ~~K.A.R. 82-4-3i~~ K.S.A. 8-2,133.”

~~(5)~~(4) The following revisions shall be made to 49 C.F.R. 391.15:

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

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

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

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

(E) In paragraphs (f)(1), (f)(2)(i), and (f)(2)(ii), the phrase “§ 392.82(a)” shall be deleted and replaced with “49 C.F.R. 392.82(a) as adopted by K.A.R. 82-4-3h.”

~~(6)~~(5) The following revisions shall be made to 49 C.F.R. 391.21:

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

(B) In paragraph (b)(11), the phrase “as defined by Part 383 of this subchapter” shall be deleted.

~~(C) In paragraph (d), the phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g,” and the phrase “§ 391.23(i)” shall be deleted and replaced with “49 C.F.R. 391.23(i) as adopted by K.A.R. 82-4-3g.”~~

~~(7)(6)~~ The following changes shall be made to 49 C.F.R. 391.23:

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

~~(B)~~ (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.”

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

~~(D) In paragraph (e)(2), the phrase “§ 391.53” shall be deleted and replaced with “49 C.F.R. 391.53 as adopted by K.A.R. 82-4-3g.”~~

~~(E)~~ (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.”

~~(F)~~ (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.”

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

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

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

~~(J)~~ (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.

~~(K)~~ (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.

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

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

~~(N)~~ (K) In paragraph (f), the term “§ 40.321(b)” shall be deleted and replaced by “49 C.F.R. 40.321(b), as adopted by K.A.R. 82-4-3b.”

~~(O)~~ (L) In paragraph (j)(6), the following changes shall be made:

(i) In the first sentence, the comma following the phrase “safety performance information” shall be deleted, and the following text shall be inserted at the end of the first sentence: “if the previous employer is an interstate motor carrier, the driver may submit a complaint.”

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

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

~~(P)~~ In paragraph (m)(1), the phrase “§ 391.43” shall be deleted and replaced with “49 C.F.R. 391.43 as adopted by K.A.R. 82-4-3g.”

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

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

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

~~(8)~~ (7) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.25:

~~(A)~~ In paragraphs (a) and (b), the phrase “subpart G of this part” shall be deleted and replaced with “~~49 C.F.R. Part 391, Subpart G as adopted by K.A.R. 82-4-3g.~~”

~~(B)~~ In paragraph (b), the phrase “~~§ 391.15~~” shall be deleted and replaced with “~~49 C.F.R. 391.15 as adopted by K.A.R. 82-4-3g.~~”

~~(C)~~ In paragraph (b)(1), the phrase “Federal Motor Carrier Safety Regulations in this subchapter or Hazardous Materials Regulations (49 CFR chapter 1, subchapter C)” shall be deleted and replaced by “commission motor carrier safety regulations as adopted by K.A.R. 82-4-20, or any Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations, as adopted by article 4 of the commission’s regulations, occurring in interstate commerce.”

~~(9)~~ (8) The following revisions shall be made to 49 C.F.R. 391.27:

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

~~(B)~~ (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.”

~~(C)~~ (B) Paragraph (e) shall be deleted.

~~(10)~~ (9) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.31:

~~(A)~~ In paragraph (a), the phrase “~~of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g~~” shall be added after the phrase “subpart G.”

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

~~(11)~~(10) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.33:

~~(A)~~ In paragraph (a), the phrase “§ 391.31” shall be deleted and replaced with “49 C.F.R. 391.31 as adopted by K.A.R. 82-4-3g.”

~~(B)~~ In paragraph (a)(1), the phrase “§ 383.5 of this subchapter” shall be deleted and replaced by “K.S.A. 8-234b and amendments thereto.”

~~(C)~~ In paragraph (a)(2), the phrase “§ 391.31” shall be deleted and replaced with “49 C.F.R. 391.31 as adopted by K.A.R. 82-4-3g.”

~~(12)~~(11) The following revisions shall be made to 49 C.F.R. 391.41:

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

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

(ii) The phrase “in accordance with § 49 CFR 383.71(h) ~~of this chapter~~” shall be deleted.

~~(iii)~~ The phrase “§ 391.43(h)” shall be deleted and replaced with “49 C.F.R. 391.43(h) as adopted by K.A.R. 82-4-3g.”

(B) In paragraph (a)(2)(ii), the phrase “~~by~~ in accordance with § 383.71(h)” shall be deleted. The phrase “~~medical variance~~” shall be deleted and replaced with “~~medical waiver~~,” and the phrase “~~FMCSA~~” shall be deleted and replaced with “~~the commission~~.”

(C) In paragraphs (a)(3)(i) and (ii), the phrase “~~§ 391.43~~” shall be deleted and replaced with “49 C.F.R. 391.43 as adopted by K.A.R. 82-4-3g.” In paragraph (a)(2)(i)(B), the phrase “49 CFR part 383” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

(D) In paragraphs (b)(1) and (b)(2)(ii), the phrase “~~§ 391.49~~” shall be deleted and replaced with “49 C.F.R. 391.49 as adopted by K.A.R. 82-4-3g.” In paragraph (a)(2)(ii), the phrase “part 383 of this chapter” shall be deleted and replaced with “the Kansas uniform commercial drivers’ license act, found at K.S.A. 8-2,125 et seq.”

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

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

(G) In paragraph (b)(12)(ii), the phrase “~~licensed medical practitioner, as defined in § 382.107~~” shall be deleted and replaced with “~~licensed medical examiner, as defined in K.A.R. 82-4-1.~~”

~~(13)~~(12) The following changes shall be made to 49 C.F.R. 391.43:

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

(i) The phrase “~~§ 391.42~~” shall be deleted and replaced with “49 C.F.R. 391.42 as adopted by K.A.R. 82-4-3g.”

(ii) The phrase “subpart D of part 390 of this chapter” shall be deleted and replaced with “subpart D of 49 C.F.R. Subtitle B, Chapter III, Subchapter B, Part 390.”

(B) In paragraph (b), the phrase “~~§ 391.41(b)~~” shall be deleted and replaced with “49 C.F.R. 391.41(b) as adopted by K.A.R. 82-4-3g.”

~~(C) In paragraph (d), the phrase “§ 391.62” shall be deleted and replaced with “49 C.F.R. 391.62 as adopted by K.A.R. 82-4-3g.”~~

~~(D) In paragraph (e), the phrase “§ 391.64” shall be deleted and replaced with “49 C.F.R. 391.64 as adopted by K.A.R. 82-4-3g.”~~

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

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

~~(G) In paragraph (g)(2), the phrase “§ 391.41(b)” shall be deleted and replaced with “49 C.F.R. 391.41(b) as adopted by K.A.R. 82-4-3g.”~~

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

~~(14) The following revisions shall be made to 49 C.F.R. 391.45:~~

~~(A) In the first paragraph, the phrase “§ 391.67” shall be deleted and replaced with “49 C.F.R. 391.67 as adopted by K.A.R. 82-4-3g.” The phrase “§ 391.43” shall be deleted and replaced with “49 C.F.R. 391.43 as adopted by K.A.R. 82-4-3g.”~~

~~(B) In paragraph (b)(2), the phrase “§ 391.62” shall be deleted and replaced with “49 C.F.R. 391.62 as adopted by K.A.R. 82-4-3g.” The phrase “§ 391.64” shall be deleted and replaced with “49 C.F.R. 391.64 as adopted by K.A.R. 82-4-3g.”~~

~~(15)(13) The following revisions shall be made to 49 C.F.R. 391.47:~~

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

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

(C) In paragraphs (c) and (d), the phrase “Director, Office of Carrier, Driver and Vehicle Safety Standards (MC-PS)” shall be deleted and replaced by the phrase “director of the commission’s transportation division.”

(D) The last two sentences of paragraph (e) shall be deleted and replaced by the following sentence: “Petitions shall be filed in accordance with K.A.R. 82-1-235 and K.S.A. 77-601 et seq.”

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

~~(16)~~ (14) The following revisions shall be made to 49 C.F.R. 391.49:

~~(A)~~ In paragraph (a), the phrase “§ 391.41(b)(1) or (b)(2)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(1) or (b)(2) as adopted by K.A.R. 82-4-3g.”

~~(B)~~ (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.”

~~(C)~~ (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.”

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

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

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

~~(i) In paragraph (d)(1), the phrase “§ 391.43” shall be deleted and replaced with “49 C.F.R. 391.43 as adopted by K.A.R. 82-4-3g.”~~

~~(ii) In paragraph (d)(2), the phrase “§ 391.43(h)” shall be deleted and replaced with “49 C.F.R. 391.43(h) as adopted by K.A.R. 82-4-3g.”~~

~~(iii) In paragraph (d)(3)(i), the phrase “§ 391.41(b)(1)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(1) as adopted by K.A.R. 82-4-3g.”~~

~~(iv) In paragraph (d)(3)(ii), the phrase “§ 391.41(b)(2)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(2) as adopted by K.A.R. 82-4-3g.”~~

~~(v) In paragraph (d)(5)(i), the phrase “§ 391.31(b)” shall be deleted and replaced with “49 C.F.R. 391.31(b) as adopted by K.A.R. 82-4-3g.”~~

~~(vi) In paragraph (d)(6)(i), the phrase “§ 391.21” shall be deleted and replaced with “49 C.F.R. 391.21 as adopted by K.A.R. 82-4-3g.”~~

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

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

~~(I) In paragraph (i)(8), the phrase “§391.41(b)(1)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(1) as adopted by K.A.R. 82-4-3g” and the phrase “§391.41(b)(2)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(2) as adopted by K.A.R. 82-4-3g.”~~

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

~~(K)~~ (I) The following revisions shall be made to paragraph (j)(2):

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

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

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

~~(17)~~ (15) The following revisions shall be made to 49 C.F.R. 391.51:

~~(A) In paragraph (b)(1), the phrase “§ 391.21” shall be deleted and replaced with “49 C.F.R. 391.21 as adopted by K.A.R. 82-4-3g.”~~

~~(B) In paragraph (b)(2), the phrase “§ 391.23(a)(1)” shall be deleted and replaced with “49 C.F.R. 391.23(a)(1) as adopted by K.A.R. 82-4-3g.”~~

~~(C) In paragraph (b)(3), the phrase “§ 391.31(e)” shall be deleted and replaced with “49 C.F.R. 391.31(e) as adopted by K.A.R. 82-4-3g.” The phrase “§ 391.33” shall be deleted and replaced with “49 C.F.R. 391.33 as adopted by K.A.R. 82-4-3g.”~~

~~(D) In paragraph (b)(4), the phrase “§ 391.25(a)” shall be deleted and replaced with “49 C.F.R. 391.25(a) as adopted by K.A.R. 82-4-3g.”~~

(E) In paragraph (b)(5), the phrase “~~§ 391.25(c)(2)~~” shall be deleted and replaced with “~~49 C.F.R. 391.25(c)(2) as adopted by K.A.R. 82-4-3g.~~”

(F) In paragraph (b)(6), the phrase “~~§ 391.27~~” shall be deleted and replaced with “~~49 C.F.R. 391.27 as adopted by K.A.R. 82-4-3g.~~”

(G) In paragraph (b)(7)(i), the phrase “~~§ 391.43(g)~~” shall be deleted and replaced with “~~49 C.F.R. 391.43(g) as adopted by K.A.R. 82-4-3g.~~”

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

(I) In paragraph (b)(7)(iii), the phrase “~~§ 391.51(b)(8)~~” shall be deleted and replaced with “~~49 C.F.R. 391.51(b)(8) as adopted by K.A.R. 82-4-3g.~~”

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

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

(ii) The phrase “~~§ 391.49~~” shall be deleted and replaced with “~~49 C.F.R. 391.49 as adopted by K.A.R. 82-4-3g.~~”

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

(K) In paragraph (d)(1), the phrase “~~§ 391.25(a)~~” shall be deleted and replaced with “~~49 C.F.R. 391.25(a) as adopted by K.A.R. 82-4-3g.~~”

(L) In paragraph (d)(2), the phrase “~~§ 391.25(c)(2)~~” shall be deleted and replaced with “~~49 C.F.R. 391.25(c)(2) as adopted by K.A.R. 82-4-3g.~~”

(M) In paragraph (d)(3), the phrase “~~§ 391.27~~” shall be deleted and replaced with “~~49 C.F.R. 391.27 as adopted by K.A.R. 82-4-3g.~~”

(N) In paragraph (d)(4), the phrase “§ 391.43(g)” shall be deleted and replaced with “49 C.F.R. 391.43(g) as adopted by K.A.R. 82-4-3g.” The phrase “§ 391.51(b)(7)(ii)” shall be deleted and replaced with “49 C.F.R. 391.51(b)(7)(ii) as adopted by K.A.R. 82-4-3g.”

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

(P) In paragraph (d)(6), the phrase “§ 391.23(m)” shall be deleted and replaced with “49 C.F.R. 391.23(m) as adopted by K.A.R. 82-4-3g.”

(18) The following revisions shall be made to 49 C.F.R. 391.53:

(A) In paragraph (a), the phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g.”

(B) In paragraph (b)(1), the phrase “§ 391.23(d)” shall be deleted and replaced with “49 C.F.R. 391.23(d) as adopted by K.A.R. 82-4-3g.”

(C) In paragraph (b)(2), the phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g.”

(19) (16) In 49 C.F.R. 391.55, the text “as in effect on October 1, 2013 2015, which are hereby adopted by reference” shall be inserted at the end of paragraph (b)(1).

(20) (17) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.61:

(A) The phrase “§ 391.21” shall be deleted and replaced with “49 C.F.R. 391.21 as adopted by K.A.R. 82-4-3g.”

(B) The phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g.”

~~(C)~~ The phrase “§ 391.33” shall be deleted and replaced with “49 C.F.R. 391.33 as adopted by K.A.R. 82-4-3g.”

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

~~(21)~~ (18) The following revisions shall be made to 49 C.F.R. 391.62:

~~(A)~~ In the first paragraph, the phrase “§§ 391.11(b)(1) and 391.41(b)(1) through (b)(11)” shall be deleted and replaced with “49 C.F.R. 391.11(b)(1) and 391.41(b)(1) through (b)(11) as adopted by K.A.R. 82-4-3g.”

~~(B)~~ (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.”

~~(C)~~ (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.”

~~(D)~~ (C) In paragraph (e)(1), the phrase “Federal Motor Carrier Safety Regulations contained in this subchapter” shall be deleted and replaced by “commission’s motor carrier regulations found in Article 4.”

~~(22)~~ (19) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.63:

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

~~(B)~~ In paragraph (a)(1), the phrase “§ 391.21” shall be deleted and replaced with “49 C.F.R. 391.21 as adopted by K.A.R. 82-4-3g.”

~~(C)~~ In paragraph (a)(2), the phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g.”

~~(D) In paragraph (a)(3), the phrase “§ 391.25(a)” shall be deleted and replaced with “49 C.F.R. 391.25(a) as adopted by K.A.R. 82-4-3g.”~~

~~(E) In paragraph (a)(4), the phrase “§ 391.25(b)” shall be deleted and replaced with “49 C.F.R. 391.25(b) as adopted by K.A.R. 82-4-3g.”~~

~~(F) In paragraph (a)(5), the phrase “§ 391.27” shall be deleted and replaced with “49 C.F.R. 391.27 as adopted by K.A.R. 82-4-3g.”~~

~~(23)~~ (20) 49 C.F.R. 391.64 shall be revised as follows:

~~(A) In paragraph (a), the phrase “§ 391.41(b)(3)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(3) as adopted by K.A.R. 82-4-3g.”~~

~~(B) In paragraph (a)(1)(i), the phrase “§ 391.41” shall be deleted and replaced with “49 C.F.R. 391.41 as adopted by K.A.R. 82-4-3g.”~~

~~(C)~~ (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.”

~~(D)~~ (B) In paragraphs (a)(2)(v) and (b)(3), the phrase “duly authorized federal, state or local enforcement official” shall be deleted and replaced by the phrase “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

~~(E) In paragraph (b), the phrase “§ 391.41(b)(10)” shall be deleted and replaced with “49 C.F.R. 391.41(b)(10) as adopted by K.A.R. 82-4-3g.”~~

~~(F) In paragraph (b)(1)(i), the phrase “§ 391.41” shall be deleted and replaced with “49 C.F.R. 391.41 as adopted by K.A.R. 82-4-3g.”~~

~~(24)~~ (21) The form set out in 49 C.F.R. 391.65 shall be revised as follows:

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

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

~~(25)~~ (22) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.67:

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

(B) Paragraph (a) shall be deleted and replaced with the following: “49 C.F.R. 391.11(b)(1), (b)(6) and (b)(8) as adopted by K.A.R. 82-4-3g.”

(C) Paragraph (b) shall be deleted and replaced with the following: “Subpart C of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.”

(D) Paragraph (c) shall be deleted and replaced with the following: “Subpart D of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.”

(E) Paragraph (d) shall be deleted and replaced with the following: “Subpart F of 49 C.F.R. Part 391 as adopted by K.A.R. 82-4-3g.”

(26) The following revisions shall be made to 49 C.F.R. 391.68:

(A) In paragraph (a), the phrase “Section 391.11(b)(1), (b)(6) and (b)(8)” shall be deleted and replaced with “49 C.F.R. 391.11(b)(1), (b)(6) and (b)(8) as adopted by K.A.R. 82-4-3g.”

(B) In paragraph (b), the phrase “Subpart C” shall be deleted and replaced with “49 C.F.R. 391.21 through 391.27 as adopted by K.A.R. 82-4-3g.”

(C) In paragraph (c), the phrase “§§ 391.41 and 391.45” shall be deleted and replaced with “49 C.F.R. 391.41 and 391.45 as adopted by K.A.R. 82-4-3g.”

~~(D)~~ In paragraph (d), the phrase “Subpart F” shall be deleted and replaced with “49 C.F.R. 391.51 through 391.55 as adopted by K.A.R. 82-4-3g.”

~~(27)~~ (23) The following ~~revisions~~ revision shall be made to 49 C.F.R. 391.69:

(A) The phrase “§ 391.21” shall be deleted and replaced with “49 C.F.R. 391.21 as adopted by K.A.R. 82-4-3g.”

(B) The phrase “§ 391.23” shall be deleted and replaced with “49 C.F.R. 391.23 as adopted by K.A.R. 82-4-3g.”

(C) The phrase “§ 391.31” shall be deleted and replaced with “49 C.F.R. 391.31 as adopted by K.A.R. 82-4-3g.”

~~(D)~~ The phrase “§ 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.”

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

~~(b)~~(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2014 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2014 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011; amended Sept. 20, 2013; amended June 12, 2015; amended P-_____.)

82-4-3h. Driving of commercial motor vehicles. (a) With the following exceptions, 49 C.F.R. Part 392, as in effect on October 1, ~~2013~~ 2015 and as amended by ~~78~~ 81 fed. reg. ~~60226~~ 47721 (~~2013~~) (2016), is hereby adopted by reference:

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

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

~~(2)~~(3) In paragraph (c) of 49 C.F.R. 392.4, shall be revised as follows: the phrase “§ 382.107 of this subchapter” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(A) — Paragraph (a)(1) shall be deleted and replaced by the following: “(1) Any substance listed in schedule I of 21 C.F.R. 1308.11, which is hereby adopted by reference as in effect on April 1, 2013.”

(B) — In paragraph (c), the phrase “~~§ 382.107 of this subchapter~~” shall be deleted and replaced by “~~49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.~~”

~~(3)~~(4) 49 C.F.R. 392.5 shall be revised as follows:

(A) In paragraph (a)(1), the phrase “§ 382.107 of this subchapter” shall be deleted and replaced by “49 C.F.R. 382.107, as adopted by K.A.R. 82-4-3c.”

(B) In paragraph (a)(3), the phrase “~~and hereby adopted by reference as in effect on July 1, 2012~~ and dated August 10, 2005” shall be added after the phrase “26 U.S.C. 5052(a).”

(C) In paragraph (a)(3), the phrase “section 5002(a)(8), of such Code” shall be deleted and replaced by “26 U.S.C. 5002(a)(8), hereby adopted by reference ~~as in effect on July 1, 2012~~ and dated August 10, 2005.”

(D) In paragraph (d)(2), a period shall be placed after the phrase “affirmation of the order”; the remainder of the paragraph shall be deleted.

(E) Paragraph (e) shall be deleted and replaced by the following: “(e) Any driver who is subject to an out-of-service order may petition for reconsideration of that order in accordance with K.A.R. 82-1-235 and the provisions of the Kansas Judicial Review Act, found at K.S.A. 77-601 et seq.”

~~(4)~~(5) In 49 C.F.R. 392.8, the phrase “§ 393.95 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

~~(5)~~(6) In 49 C.F.R. 392.9(a)(1), the phrase “§§ 393.100 through 393.136 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.100 through 393.136, as adopted by K.A.R. 82-4-3i.”

~~(6)~~(7) The following revisions shall be made to 49 C.F.R. 392.9a:

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

(B) In paragraph (c), the phrase “5 U.S.C. 554 not later than 10 days after issuance of such order” shall be deleted and replaced with “K.A.R. 82-1-235 and the provisions of the Kansas Judicial Review Act, found at K.S.A. 77-601 et seq.”

~~(7)~~(8) In 49 C.F.R. 392.9b, the phrase “49 U.S.C. 521” in paragraph (b) shall be deleted and replaced by “Kansas law.”

~~(8)~~(9) 49 C.F.R. 392.10 shall be revised as follows:

(A) In paragraph (a)(4), the phrase “Parts 107 through 180 of this title” shall be deleted and replaced by “49 C.F.R. 107.105, 107.107, 107.502, 107.503, and Parts 171, 172, 173, 177, 178, and 180, all as adopted by K.A.R. 82-4-20.”

~~(B)~~ In paragraph (a)(5), the phrase “§ 173.120 of this title” shall be deleted and replaced by “49 C.F.R. 173.120, as adopted by K.A.R. 82-4-20.”

~~(C)~~(B) In paragraph (a)(6), the phrase “subpart B of part 107 of this title” shall be deleted and replaced by “49 C.F.R. 107.105 and 107.107, both as adopted by K.A.R. 82-4-20.”

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

~~(9)~~ In 49 C.F.R. 392.11, the phrase “§ 392.10” shall be deleted and replaced with “49 C.F.R. 392.10 as adopted by K.A.R. 82-4-3h.”

(10) The phrase “§ 393.95 of this subchapter” in 49 C.F.R. 392.22(b) shall be deleted and replaced by “49 C.F.R. 393.95, as adopted by K.A.R. 82-4-3i.”

(11) In 49 C.F.R. 392.25, the phrase “§ 392.22(b)” shall be deleted and replaced with “49 C.F.R. 392.22(b) as adopted by K.A.R. 82-4-3h.”

~~(12)~~ In 49 C.F.R. 392.33(a), the phrase “subpart B of part 393 of this title” shall be deleted and replaced by “~~49 C.F.R. 393.9 through 393.33~~ 49 C.F.R. Part 393, Subpart B, as adopted by K.A.R. 82-4-3i.”

~~(13)~~ The following revisions shall be made to 49 C.F.R. 392.51:

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

~~(B)~~ In paragraph (b), the phrase “~~hereby incorporated by reference as in effect on July 1, 2013~~” shall be inserted after the phrase “~~29 CFR 1910.106.~~”

~~(14)~~(13) 49 C.F.R. 392.62 shall be revised as follows:

(A) In paragraph (a), the phrase “§ 393.90 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.90, as adopted by K.A.R. 82-4-3i.”

(B) In paragraph (b), the phrase “§ 393.91 of this subchapter” shall be deleted and replaced by “49 C.F.R. 393.91, as adopted by K.A.R. 82-4-3i.”

~~(15)~~(14) In 49 C.F.R. 392.80(c), the phrase “as adopted by K.A.R. 82-4-3f” shall be inserted after the phrase “49 C.F.R. 390.5.”

~~(16)~~ In 49 C.F.R. 392.82, the first instance of the word “highway” shall be deleted and replaced by “highway as defined in K.A.R. 82-4-3f.”

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

(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2015 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2015 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

82-4-3i. Parts and accessories necessary for safe operation. (a)(1) With the following exceptions, 49 C.F.R. Part 393, as in effect on October 1, ~~2013~~ 2015 and as amended by 81 fed. reg. 47721 (2016), is hereby adopted by reference:

(A) ~~In 49 C.F.R. 393.1(a), the phrase “§ 390.5 of this title” in the first sentence shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.” The phrase “§ 390.5” in the second sentence shall be deleted and replaced with “49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”~~ In 49 C.F.R. 393.1 (e), the phrase “49 CFR 390.38(b)” shall be deleted and replaced with “49 C.F.R. 390.38(b) as adopted by K.A.R. 82-4-3f.”

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

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

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

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

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

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

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

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

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

(E) The following revision shall be made to 49 C.F.R. 393.13: In paragraph (a), the phrase “§ 390.5 of this subchapter” shall be deleted and replaced by “49 C.F.R. 390.5, as adopted by K.A.R. 82-4-3f.” The last two sentences of paragraph (a) shall be deleted.

(F) — In 49 C.F.R. 393.17(e)(1), the phrase “under § 392.30” shall be deleted.

~~(G)~~ In 49 C.F.R. 393.19, the phrase “§393.11” shall be deleted and replaced with “49 C.F.R. 393.11 as adopted by K.A.R. 82-4-3i.”

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

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

(ii) Paragraph (d) shall be deleted.

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

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

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

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

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

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

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

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

~~(O)~~(M) In 49 C.F.R. 393.62(d)(1), the parenthetical sentence at the end of the paragraph shall be deleted and replaced with “Pages 1-37 of this document are hereby incorporated by reference.”

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

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

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

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

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

~~(R)~~(P) The following revision shall be made to 49 C.F.R. 393.75: In paragraphs ~~(g)~~(h)~~(1)~~ and (g)(2), the clause “that are labeled pursuant to 24 C.F.R. 3282.362(c)(2)(i)” shall be deleted and replaced by “built.”

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

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

~~(U)~~(S) The following revision shall be made to 49 C.F.R. 393.86(a)(1):

The third sentence shall be deleted.

~~(V)~~(T) In 49 C.F.R. 393.94, paragraph (c)(4) shall be deleted and replaced by the following: “Set the sound level meter to the A-weighting network, ‘fast’ meter response.”

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

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

(ii) In paragraph (a)(5), “Appendix A, Appendix B, Appendix H, Appendix I, Appendix J, Appendix L, Appendix O, and Appendix P, all ~~as in effect on~~ dated July 1, 2012 2015, which are hereby adopted by reference” shall be added after the phrase “under 40 CFR Part 82, Subpart G.”

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

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

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

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

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

(iii) In paragraph (e)(3), the phrase “Web Sling and Tiedown Association’s Recommended Standard Specification for Synthetic Web Tiedowns, WSTDA-T1, 1998” shall be deleted and replaced with “pages ~~4-23~~ 4-15 of the web sling & ~~tiedown~~ tie down association’s

‘recommended standard specification for ~~synthetic web tie downs~~ tie downs,’ ~~WSTDA-T1~~
WSTDA-T-1, revised ~~1998~~ 2015.” These pages are hereby adopted by reference.

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

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

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

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

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

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

(b) As used in this regulation, each reference to any of the following federal motor vehicle safety standards (FMVSS) shall mean that standard in 49 C.F.R. Part 571, as in effect on October 1, ~~2013~~ 2015, which standards are hereby adopted by reference:

- (1) FMVSS 103, 49 C.F.R. 571.103;
- (2) FMVSS 104, 49 C.F.R. 571.104, sections S4.1 and 4.2.2 only;
- (3) FMVSS 105, 49 C.F.R. 571.105, sections S5.3 and 5.5 only;
- (4) FMVSS 106, 49 C.F.R. 571.106;
- (5) FMVSS 108, 49 C.F.R. 571.108;
- (6) FMVSS 111, 49 C.F.R. 571.111;
- (7) FMVSS 119, 49 C.F.R. 571.119, section S5.1(b) only;
- (8) FMVSS 121, 49 C.F.R. 571.121, sections S5.1.6.1(b), 5.1.6.2(a), 5.1.6.2(b), 5.2.3.2 and 5.2.3.3 only;
- (9) FMVSS 125, 49 C.F.R. 571.125;
- (10) FMVSS 205, 49 C.F.R. 571.205, section S6 only;
- (11) FMVSS 223, 49 C.F.R. 571.223; and
- (12) FMVSS 224, 49 C.F.R. 571.224, sections S5.1.1, 5.1.2, and 5.1.3 only.

(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. ~~2015 Supp.~~ 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2015 Supp.~~ 66-1,129; effective, T-82-12-29-04, Dec. 29,

2004; effective April 29, 2005; amended Oct. 2, 2009; amended Nov. 14, 2011; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

PROPOSED

82-4-3j. Inspection, repair, and maintenance. (a) With the following exceptions, 49 C.F.R. Part 396, as in effect on October 1, 2013 2015 and as amended by 81 fed. reg. 47722 (2016), is hereby adopted by reference:

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

(2) In 49 C.F.R. 396.3(a)(1), the phrase “part 393 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(3) The following revisions shall be made to 49 C.F.R. 396.9:

(A) In paragraph (a), the phrase “Every special agent of the FMCSA (as defined in appendix B to this subchapter)” shall be deleted and replaced by “Any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) In paragraph (b), the sentence after “Prescribed inspection report” shall be deleted and replaced by the following sentence: “Motor vehicle inspections conducted by authorized personnel as described in paragraph (a) shall be made on forms approved by the Kansas highway patrol.”

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

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

~~(4) The following revisions shall be made to 49 C.F.R. 396.15(a):~~

~~(A) The phrase “§ 396.3” shall be deleted and replaced with “49 C.F.R. 396.3 as adopted by K.A.R. 82-4-3j.”~~

~~(B) The phrase “§ 396.11” shall be deleted and replaced with “49 C.F.R. 396.11 as adopted by K.A.R. 82-4-3j.”~~

~~(C) The phrase “§ 396.17” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”~~

~~(5)(4) The following revisions shall be made to 49 C.F.R. 396.17: In paragraph (h) of 49 C.F.R. 396.17, the phrase “penalty provisions of 49 U.S.C. 521(b)” shall be deleted and replaced by “civil penalties provided by K.S.A. 66-1,142b, K.S.A. 66-1,142c, and other applicable penalties.”~~

~~(A) In paragraph (a), the phrase “of this subchapter” shall be deleted and replaced by “of this subchapter and as in effect on October 1, 2013, which is hereby adopted by reference.”~~

~~(B) In paragraph (b), the phrase “§ 396.23” shall be deleted and replaced with “49 C.F.R. 396.23 as adopted by K.A.R. 82-4-3j.”~~

~~(C) In paragraph (c)(1), the phrase “§ 396.21(a)” shall be deleted and replaced with “49 C.F.R. 396.21(a) as adopted by K.A.R. 82-4-3j.”~~

~~(D) In paragraph (c)(2)(iv), the phrase “§ 396.17” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”~~

~~(E) In paragraph (d), the phrase “§ 396.23(b)(1)” shall be deleted and replaced with “49 C.F.R. 396.23(b)(1) as adopted by K.A.R. 82-4-3j.”~~

(F) — In paragraph (e), the phrase “§ 396.19” shall be deleted and replaced with “49 C.F.R. 396.19 as adopted by K.A.R. 82-4-3j.”

(G) — In the first sentence of paragraph (f), the phrase “of this subchapter” shall be deleted and replaced with “as adopted by K.A.R. 82-4-3j.” In the second sentence, the phrase “§ 396.23(b)(1)” shall be deleted and replaced with “49 C.F.R. 396.23(b)(1) as adopted by K.A.R. 82-4-3j.”

(H) — In paragraph (g), the phrase “to this subchapter” shall be deleted and replaced with “as adopted by K.A.R. 82-4-3j.”

(I) — In paragraph (h), the phrase “penalty provisions of 49 U.S.C. 521(b)” shall be deleted and replaced by “civil penalties provided by K.S.A. 66-1,142b, K.S.A. 66-1,142c, and other applicable penalties.”

~~(6)~~(5) The following revisions revision shall be made to 49 C.F.R. 396.19:

(A) In paragraph (a), the phrase “§ 396.17(d) or (e)” shall be deleted and replaced with “49 C.F.R. 396.17(d) or (e) as adopted by K.A.R. 82-4-3j.”

(B) In paragraph (a)(1), the phrase “part 393 and appendix G of this subchapter” shall be deleted and replaced with “49 C.F.R. Part 393 as adopted by K.A.R. 82-4-3i and 49 C.F.R. Chapter III, Subchapter B, Appendix G as adopted by K.A.R. 82-4-3j.”

~~(7)~~(6) The following revisions shall be made to 49 C.F.R. 396.21: In paragraphs (b)(2) and (3) of 49 C.F.R. 396.21, the word “Federal” shall be deleted.

(A) — In paragraph (a)(5), the phrase “to this subchapter” shall be deleted and replaced with the phrase “to 49 C.F.R. Chapter III, Subchapter B as adopted by K.A.R. 82-4-3j.”

(B) — In paragraphs (b)(2) and (3), the word “Federal” shall be deleted.

~~(8)~~(7) The following revisions shall be made to 49 C.F.R. 396.23:

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

(i) ~~In the first sentence, the phrase “§ 396.17” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”~~

(ii) ~~In the third sentence, the phrase “to this subchapter” shall be deleted and replaced with “to 49 C.F.R. Chapter III, Subchapter B as adopted by K.A.R. 82-4-3j.”~~

(iii) ~~Appendix G, as adopted in this regulation, shall not include the sections titled “Comparison of Appendix G, and the New North American Uniform Driver Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria)” and “Differences Between the Out-of-Service Criteria & FMCSA’s Annual Inspection.”~~

(iv) ~~In the last sentence, the phrase “§ 396.21(a)” shall be deleted and replaced with “49 C.F.R. 396.21(a) as adopted by K.A.R. 82-4-3j.”~~

(B) The following ~~revisions~~ revision shall be made to paragraph (b)(1):

(i) The phrase “by the Administrator” shall be deleted.

(ii) ~~The phrase “§ 396.17” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”~~

(C) ~~In paragraph (b)(2), the phrase “§ 396.17” shall be deleted and replaced with “49 C.F.R. 396.17 as adopted by K.A.R. 82-4-3j.”~~

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

~~(b)(c)~~ Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in

article 4 of the commission's regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. ~~2015 Supp.~~ 66-1,112, K.S.A. 66-1,112g, and K.S.A. ~~2015 Supp.~~ 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

PROPOSED

82-4-3k. Transportation of hazardous materials; driving and parking rules. (a) With the following exceptions, 49 C.F.R. Part 397, as in effect on October 1, ~~2013~~ 2015, is hereby adopted by reference:

(1) In 49 C.F.R. 397.1(a), the phrase “§177.823 of this title” shall be deleted and replaced by “49 C.F.R. 177.823 as adopted by K.A.R. 82-4-20.”

(2) In 49 C.F.R. 397.2, the phrase “the rules in parts 390 through 397, inclusive, of this subchapter” shall be deleted and replaced by “K.A.R. 82-4-3a and K.A.R. 82-4-3f through K.A.R. 82-4-3k.” The phrase “§177.823 of this title” shall be deleted and replaced by “49 C.F.R. 177.823 as adopted by K.A.R. 82-4-20.”

(3) In 49 C.F.R. 397.3, the term “Department of Transportation” shall be deleted and replaced by “commission.”

(4) In 49 C.F.R. 397.5 (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after “(explosive) material.”

(5) In 49 C.F.R. 397.7(a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the words “Division 1.1, 1.2, or 1.3 materials.”

(6) The following revisions shall be made to 49 C.F.R. 397.13:

(A) In paragraph (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the words “Division 2.1, Class 3, Divisions 4.1 and 4.2.”

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

~~(7) In 49 C.F.R. 397.17(d), the phrase “§§ 397.5 and 397.7” shall be deleted and replaced with “49 C.F.R. 397.5 and 397.7 as adopted by K.A.R. 82-4-3k.”~~

~~(8)~~(7) The following revisions shall be made to 49 C.F.R. 397.19:

(A) In paragraph (a), the phrase “as defined by 49 C.F.R. 172.101 and adopted by K.A.R. 82-4-20” shall be added after the words “(explosive) materials.”

~~(B)~~ In paragraph (a)(1), the phrase “this part” shall be deleted and replaced with “49 C.F.R. Part 397 as adopted by K.A.R. 82-4-3k.”

~~(C)~~(B) In paragraph (c)(2), the phrase “§177.817 of this title” shall be deleted and replaced by “49 C.F.R. 177.817 as adopted by K.A.R. 82-4-20.”

~~(D)~~ In paragraph (e)(3), the phrase “§ 397.67” shall be deleted and replaced with “49 C.F.R. 397.67 as adopted by K.A.R. 82-4-3k.”

~~(9)~~(8) The following revisions shall be made to 49 C.F.R. 397.65:

(A) The definitions of “Administrator” and “FMCSA” shall be deleted.

(B) In the definition of “Motor carrier,” the definition portion shall be deleted and replaced with the following: “‘Motor carrier’ shall have the same definition as specified in K.S.A. 66-1,108 49 CFR 390.5 as adopted by K.A.R. 82-4-3f.”

(C) In the definition of “Motor vehicle,” the definition portion shall be deleted and replaced with the following: “‘Motor vehicle’ shall have the same definition as specified in K.S.A. 66-1,108 49 CFR 390.5 as adopted by K.A.R. 82-4-3f.”

(D) In the definition of “Indian tribe,” the text “~~as in effect on January 7, 2003~~ dated October 25, 1994, which is hereby adopted by reference” shall be added after “25 U.S.C. 450b.”

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

(F) In the definition of “Radioactive material,” the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.403.”

~~(10)~~(9) The following changes shall be made to 49 C.F.R. 397.67:

(A) In paragraph (b), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 177.823.”

(B) In paragraph (d), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 173.50 and 173.53 respectively.”

~~(11)~~(10) 49 C.F.R. 397.69 shall be deleted.

~~(12)~~(11) 49 C.F.R. 397.71 shall be deleted.

~~(13)~~(12) 49 C.F.R. 397.73 shall be deleted.

~~(14)~~(13) 49 C.F.R. 397.75 shall be deleted.

~~(15)~~(14) 49 C.F.R. 397.77 shall be deleted.

~~(16)~~(15) The following revisions shall be made to 49 C.F.R. 397.101:

(A) In paragraph (a), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.403” and after “49 CFR part 172.”

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

~~(C)~~ In paragraph (b)(1), the phrase “§ 397.103” shall be deleted and replaced with “49 C.F.R. 397.103 as adopted by K.A.R. 82-4-3k.”

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

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

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

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

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

~~(H)~~(H) Paragraph (g) shall be deleted and replaced by the following: “Unless otherwise preempted, each motor carrier who accepts for transportation on a highway route a controlled quantity of Class 7 (radioactive) material, as defined by 49 C.F.R. 173.401(1), as adopted by K.A.R. 82-4-20, shall provide the following information to the director within 90 days following acceptance of the package:”.

~~(I)~~(I) In paragraph (g)(3), the phrase “as adopted by K.A.R. 82-4-20” shall be added after “49 CFR 172.202 and 172.203.”

~~(17)~~(16) Except for paragraph (c), 49 C.F.R. 397.103 shall be deleted.

~~(18)~~(17) Subpart E of 49 C.F.R. Part 397 shall be deleted.

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

(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2015 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2015 Supp. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

82-4-31. Transportation of migrant workers. (a) With the following exceptions, 49 C.F.R.

Part 398, as in effect on October 1, ~~2014~~ 2015, is hereby adopted by reference:

(1) The following revisions shall be made to 49 C.F.R. 398.1:

(A) The following revisions shall be made to 49 C.F.R. 398.1(a):

(i) A period shall be placed after the word “agriculture.”

(ii) The remainder of the paragraph shall be deleted and replaced by the following: “For the purposes of 49 C.F.R. Part 398 only, the definition of ‘agriculture’ found in 29 U.S.C. 203(f), as in effect on ~~January 3, 2007~~ December 16, 2014, is hereby adopted by reference. For the purposes of 49 C.F.R. Part 398 only, the definition of ‘employment in agriculture’ shall be the same as the definition of ‘agricultural labor’ found in 26 U.S.C. 3121(g), as in effect on August 31, 2006, which is hereby adopted by reference.”

(B) In paragraph (b), the words “person, including any ‘contract carrier by motor vehicle’, but not including any ‘common carrier by motor vehicle’, who or which transports in interstate or foreign commerce” shall be deleted and replaced by “motor carrier transporting.”

(C) In paragraph (d), the definition of “motor vehicle” shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 398.2:

(A) In paragraph (a), ~~the phrase “§ 398.1(b)” shall be deleted and replaced with “49 C.F.R. 398.1(b) as adopted by K.A.R. 82-4-31.”~~ the phrase “in interstate commerce, as defined in 49 C.F.R. 390.5” shall be deleted and replaced by “within the state of Kansas.”

(B) ~~In paragraph (b)(1), the phrase “§ 398.1(b)” shall be deleted and replaced with “49 C.F.R. 398.1(b) as adopted by K.A.R. 82-4-31.”~~

~~(C)~~ (B) In paragraph (b)(2), the phrase “in interstate commerce, must comply with the applicable requirements of 49 CFR parts 385, 390, 391, 392, 393, 395, and 396” shall be deleted and replaced by “must comply with the applicable requirements of 49 C.F.R. Part 385, as adopted by K.A.R. 82-4-3d, 49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f, 49 C.F.R. Part 391, as adopted by K.A.R. 82-4-3g, 49 C.F.R. Part 392, as adopted by K.A.R. 82-4-3h, 49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i, 49 C.F.R. Part 395, as adopted by K.A.R. 82-4-3a, and 49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j.”

(3) In 49 C.F.R. 398.3(b)(9), the phrase “§ 398.3(b) of the Federal Motor Carrier Safety Regulations of the Federal Motor Carrier Safety Administration” shall be deleted and replaced with “49 C.F.R. 398.3(b) as adopted by K.A.R. 82-4-31.”

(4) The following revisions shall be made to 49 C.F.R. 398.4:

(A) In paragraph (b), the words “jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations of this Administration which impose a greater affirmative obligation or restraint” shall be deleted and replaced by “state of Kansas.”

~~(B)~~ In the first sentence of paragraph (g)(5), the phrase “§ 398.5(f)” shall be deleted and replaced with “49 C.F.R. 398.5(f) as adopted by K.A.R. 82-4-31.”

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

~~(D)~~ In paragraph (o), the phrase “§ 398.5(f)” shall be deleted and replaced with “49 C.F.R. 398.5(f) as adopted by K.A.R. 82-4-31.”

(5) The following revisions shall be made to 49 C.F.R. 398.5:

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

(B) In paragraph (c), the phrase “part 393 of this subchapter, except § 393.44 of this subchapter” shall be deleted and replaced by “49 C.F.R. Part 393, as adopted by K.A.R. 82-4-3i.”

(6) The following revisions shall be made to 49 C.F.R. 398.8:

(A) In paragraph (a), the phrase “Special Agents of the Federal Motor Carrier Safety Administration, as detailed in appendix B of chapter III of this title” shall be deleted and replaced by “any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who is certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.”

(B) Paragraph (b) shall be deleted and replaced by the following: “(b) Prescribed inspection report. A compliance report form approved by the commission shall be used to record findings from motor vehicles selected for final inspection by any authorized representative of the commission, and any member of the Kansas highway patrol or any other law enforcement officer in the state who has been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards. A compliance report form approved by the commission shall contain the following information:

“(1) The name, MCID number, and address of the motor carrier;

“(2) information regarding the inspection location;

“(3) the date of the inspection;

“(4) the name, birth date, license number, and employment status of the driver;

“(5) whether hazardous materials were being transported, and if so, what type;

“(6) shipping information regarding the commodity transported;

“(7) identification of the vehicle used;

“(8) brake adjustment information;

“(9) identification of the alleged violations;

“(10) information regarding the authority under which the vehicle could be put out of service for alleged violations discovered during the inspection;

“(11) information regarding the individual who prepares the inspection report; and

“(12) a statement to be signed by the motor carrier that the violations have been corrected.”

(C) In paragraph (c)(1), the last sentence shall be deleted and replaced by the following: “A form approved by the commission shall be used to mark vehicles as ‘out of service.’ An out of service form approved by the commission shall contain the following information:

“(i) A statement that the motor vehicle has been declared out of service;

“(ii) a statement that the out of service marking may be removed only under the conditions outlined in the out of service order or the accompanying vehicle inspection report;

“(iii) a statement that operation of the vehicle prior to making the required repairs will subject the motor carrier to civil penalties;

“(iv) the number and dates of the inspection; and

“(v) a place for the signature of the authorized individual making the inspection.”

(D) The following revisions shall be made to paragraph (c)(2):

(i) The phrase “on Form MCS 63” shall be deleted and replaced by “on a form approved by the commission for driver-equipment compliance reporting.”

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

(E) In paragraph (c)(3), the phrase “on Form MCS 63” shall be deleted and replaced by “on a form approved by the commission for driver-equipment compliance reporting.”

(F) Paragraph (c)(4) shall be deleted and replaced by the following: “The person or persons completing the repairs required by the out of service notice shall complete a form to certify repairs approved by the commission, which shall include the person’s name and the name of the person’s shop or garage as well as the date and time the repairs were completed. If the driver completes the required repairs, then the driver shall complete the same form.”

(G) In paragraph (d)(1), the phrase “Forms MCS 63” shall be deleted and replaced by “the forms approved by the commission for driver-equipment compliance reporting.”

(H) In paragraph (d)(1), the phrase “Federal Motor Carrier Safety Regulations” shall be deleted and replaced by the phrase “commission’s regulations.”

(I) In paragraph (d)(2), the phrase “‘Motor Carrier Certification of Action Taken’ on Form MCS 63” and the phrase “Form MCS 63” shall be deleted and replaced by “form approved by the commission for driver-equipment reporting.”

(b) As used in this regulation, each reference to a portion of 49 C.F.R. Part 398 shall mean that portion as adopted by reference in this regulation.

~~(b)~~(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2012 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2012 Supp. 66-1,129, and K.S.A. 66-1,142a; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended P-_____.)

82-4-3m. Employee safety and health standards. (a)(1) With the following exceptions, 49 C.F.R. Part 399, as in effect on October 1, 2011 2015, is hereby adopted by reference:

~~(1) (A)~~ 49 C.F.R. 399.201 shall be deleted.

~~(2) (B)~~ In 49 C.F.R. 399.205, the definition of “person” shall be deleted.

~~(3) (C)~~ In 49 C.F.R. 399.209, paragraph (b) shall be deleted.

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

~~(4) Appendices A through F shall be deleted.~~

~~(5) In appendix G,~~ All text following standards 1 through 13, which begins with the heading “Comparison of Appendix G, and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria),” shall be deleted.

(b) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2012 ~~Supp.~~ 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2012 ~~Supp.~~ 66-1,129, as amended by L. 2013, ch. 14, sec. 3; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended P-_____.)

82-4-3n. Minimum levels of financial responsibility for motor carriers. (a) With the following exceptions, 49 C.F.R. Part 387, as in effect on October 1, 2013 and as amended by 78 Fed. reg. 60226, 60233-60234 (2013) 2015, is hereby adopted by reference:

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

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

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

(2) The following revisions shall be made to 49 C.F.R. 387.5:

(A) The term “for-hire” in the definition of “for-hire carriage” shall be deleted and replaced by “public.”

(B) The definition of “motor carrier” shall be deleted.

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

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

~~(A) In paragraph (a), the phrase “§ 387.9 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.9 as adopted by K.A.R. 82-4-3n.”~~

~~(B)~~ (A) 49 C.F.R. 387.7(b)(3) shall be deleted.

~~(C)~~ (B) The following revisions shall be made to paragraph (d)(3):

(i) The phrase “under §387.309” shall be deleted.

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

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

(4) The following revisions shall be made to 49 C.F.R. 387.9:

~~(A) In the first sentence, the phrase “§ 387.7 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.7 as adopted by K.A.R. 82-4-3n.”~~

~~(B) The term “for-hire” shall be deleted and replaced by “public” in the “schedule of limits—public liability.”~~

(5) The following revisions shall be made to 49 C.F.R. 387.11:

(A) In paragraphs (b) and (d), the words “any State in which the motor carrier operates” shall be deleted and replaced by “the state of Kansas.”

(B) In paragraph (c), the words “any State in which business is written” shall be deleted and replaced by “the state of Kansas.”

(6) The following ~~revisions~~ revision shall be made to 49 C.F.R. 387.15:

~~(A) The phrase “§ 387.7 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.7 as adopted by K.A.R. 82-4-3n.”~~

~~(B) The phrase “§ 387.7(b)(3) of this subpart” shall be deleted and replaced with “49 C.F.R. 387.7(b)(3) as adopted by K.A.R. 82-4-3n.”~~

~~(C) The definition of “motor vehicle” shall be deleted in illustration I.~~

(7) 49 C.F.R. 387.17 shall be deleted.

(8) In 49 C.F.R. 387.25 and 49 C.F.R. 387.27(a), the term “for-hire” shall be deleted and replaced by “public.”

(9) The following revisions shall be made to 49 C.F.R. 387.29:

~~(A) The phrase “this subpart” shall be deleted and replaced with “Subpart B of 49 C.F.R. Part 387 as adopted by K.A.R. 82-4-3n.”~~

~~(B)~~ In the definition of “for-hire carriage,” the term “for-hire” shall be deleted and replaced by “public.”

~~(C)~~(B) The definition of “motor carrier” shall be deleted.

~~(D)~~(C) In the definition of “seating capacity,” the phrase “(measured in accordance with SEA Standards J1100(a))” shall be deleted.

(10) The following revisions shall be made to 49 C.F.R. 387.31:

(A) In paragraph (a), the phrase “§ 387.33 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.33 as adopted by K.A.R. 82-4-3n.”

~~(B)~~ In paragraph (b)(3), the phrase “§ 387.35 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.35 as adopted by K.A.R. 82-4-3n.”

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

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

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

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

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

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

(11) The following ~~revisions~~ revision shall be made to 49 C.F.R. 387.33:

~~(A)~~ The phrase “§ 387.31 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.31 as adopted by K.A.R. 82-4-3n.”

(B) The term “for hire” shall be deleted and replaced by “public” in the schedule of limits.

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

(13) The following ~~revisions~~ revision shall be made to 49 C.F.R. 387.39:

(A) The phrase “prescribed by the FMCSA and approved by the OMB” shall be deleted and replaced with “approved by the commission.”

(B) The phrase “§ 387.31 of this subpart” shall be deleted and replaced with “49 C.F.R. 387.31 as adopted by K.A.R. 82-4-3n.”

(C) The phrase “§ 387.31(b)(3) of this subpart” shall be deleted and replaced with “49 C.F.R. 387.31(b)(3) as adopted by K.A.R. 82-4-3n.”

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

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

(A) The following ~~revisions~~ revision shall be made to paragraph (a)(1):

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

(ii) The phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303 as adopted by K.A.R. 82-4-3n.”

(iii) The phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2) as adopted by K.A.R. 82-4-3n.”

(B) In paragraph (a)(2), the phrase “§387.303(b)(2)” shall be deleted and replaced by “49 C.F.R. 387.303(b)(2) as adopted by K.A.R. 82-4-3n.”

~~(C)~~ In paragraph (b), the phrase “FMCSA” shall be deleted and replaced by “commission,” and the phrase “§387.303” shall be deleted and replaced by “49 C.F.R. 387.303 as adopted by K.A.R. 82-4-3n.” The last sentence in paragraph (b) shall be deleted.

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

(16) The following ~~revisions~~ revision shall be made to 49 C.F.R. 387.303:

(A) In paragraph (b)(1), the phrase “§387.301(a)(1)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(1) as adopted by K.A.R. 82-4-3n.”

~~(B)~~ In paragraph (b)(2), the phrase “§387.301(a)(2)” shall be deleted and replaced by “49 C.F.R. 387.301(a)(2) as adopted by K.A.R. 82-4-3n.”

~~(C)~~ Paragraph (b)(4) shall be deleted.

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

(18) In 49 C.F.R. 387.401(c), the term “motor vehicle” shall be deleted and replaced with “motor vehicle as defined in ~~K.S.A. 66-1,108, and amendments thereto~~ 49 C.F.R. 390.5 as adopted by K.A.R. 82-4-3f.”

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

(A) In paragraph (a), the term “FMCSA” shall be deleted and replaced with “the commission,” and the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405 as adopted by K.A.R. 82-4-3n.”

(B) In paragraph (b), the term “FMCSA” shall be deleted and replaced with “commission,” and the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405 as adopted by K.A.R. 82-4-3n.” The phrase “as adopted by K.A.R. 82-4-3n” shall be added after the phrase “49 C.F.R. 387.303(b)(2).”

~~(C) In paragraph (c), the phrase “§ 387.405” shall be deleted and replaced with “49 C.F.R. 387.405 as adopted by K.A.R. 82-4-3n.” The phrase “§ 387.307” shall be deleted and replaced with “49 C.F.R. 387.307 as adopted by K.A.R. 82-4-3n.”~~

~~(20) In 49 C.F.R. 387.405, the phrase “as adopted by K.A.R. 82-4-3n” shall be added after the phrase “49 CFR 387.303.”~~

~~(21)(20)~~ The following revisions shall be made to 49 C.F.R. 387.407:

~~(A) In paragraph (a), the phrase “§387.405” shall be deleted and replaced by “49 C.F.R. 387.405 as adopted by K.A.R. 82-4-3n.” The phrase “49 CFR part 387, subpart C,” shall be deleted and replaced with “Subpart C of 49 C.F.R. Part 387, as adopted by K.A.R. 82-4-3n.”~~

~~(B) The first instance of the term “FMCSA” shall be deleted and replaced with “commission.” The phrase “FMCSA (or the Department of Transportation, where applicable)” shall be deleted and replaced with “commission.”~~

~~(22)(21)~~ 49 C.F.R. 387.409 through 49 C.F.R. 387.419 shall be deleted.

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

~~(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2015 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2015 Supp. 66-1,128, and K.S.A. 2015 Supp. 66-1,129; effective Oct. 22, 2010; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)~~

82-4-30. Imminent hazard. (a) With the following exceptions, 49 C.F.R. Part 386, Subpart F, as in effect on October 1, ~~2013~~ 2015, is hereby adopted by reference:

(1) 49 C.F.R. 386.71 shall be deleted.

(2) The following revisions shall be made to 49 C.F.R. 386.72:

(A) In paragraph (a), the first sentence shall be deleted and replaced by the following sentence: “Whenever it is determined that an imminent hazard exists as a result of the transportation by motor vehicle of a particular hazardous material, the director of the commission’s transportation division may request an emergency suspension order from the commission for the purposes of suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or mitigate the imminent hazard.”

(B) Paragraph (b)(1) shall be deleted and replaced by the following text: “Whenever it is determined that a violation of the Kansas motor carrier statutes or administrative regulations, as amended, or a combination of such violations, poses an imminent hazard to safety, the commission may order:”

(C) ~~In paragraph (b)(1)(i), shall be deleted and replaced by the following text: “A commercial motor vehicle out-of-service, or an employer to cease all or part of the employer’s commercial motor vehicle operations in Kansas.”~~ the phrase “as provided by 49 U.S.C. 521(b)(5)” shall be deleted and replaced by “in Kansas.”

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

(E) In paragraph (b)(4), ~~the phrase “employer, intermodal equipment provider or driver employee” shall be deleted.~~ the second sentence of the paragraph shall be deleted and

replaced by the following sentence: “Administrative hearings shall be held in accordance with the Kansas Administrative Procedure Act and the commission’s administrative regulations.”

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

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

(c) Whenever the federal regulations adopted in this regulation refer to portions of the federal regulations or other operating standards that are not already adopted by reference in article 4 of the commission’s regulations, the references shall not be applicable to this regulation unless otherwise specifically adopted. (Authorized by and implementing K.S.A. 2015 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 2015 Supp. 66-1,129; effective Oct. 22, 2010; amended Sept. 20, 2013; amended May 6, 2016; amended P-_____.)

82-4-20. Transportation of hazardous materials by motor vehicles. (a) The federal regulations adopted by reference in this regulation shall govern the transportation of hazardous materials in Kansas in commerce to the extent that the regulations pertain to the transportation of hazardous materials by commercial motor vehicle.

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

(c) The following federal regulations, as in effect on October 1, ~~2013~~ 2015, are hereby adopted by reference:

- (1) 49 C.F.R. Part 171, except 171.1(a) and 171.6;
- (2) 49 C.F.R. Part 172, except 172.701, 172.804 and 172.822;
- (3) 49 C.F.R. Part 173, except 173.10 and 173.27;
- (4) 49 C.F.R. Part 177;
- (5) 49 C.F.R. Part 178; and
- (6) 49 C.F.R. Part 180.

(d) When used in any provision adopted from 49 C.F.R. Parts 171, 172, 173, 177, 178, and 180, the following substitutions shall be made unless otherwise specified:

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

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

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

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

(5) ~~The term “motor vehicle” shall be replaced with “motor vehicle as defined in K.S.A. 66-1,108, and amendments thereto.”~~

(6) ~~The term “person” shall be replaced with “person as defined in K.S.A. 66-1,108, and amendments thereto.”~~

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

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

(f) Whenever the adopted federal hazardous materials regulations refer to portions of the federal hazardous materials regulations that are not included under subsection (a), those references shall not be applicable to this regulation. (Authorized by K.S.A. 2015 Supp. 66-1,112, K.S.A. 66-1,112g, K.S.A. 2015 Supp. 66-1,129, and K.S.A. 2015 Supp. 66-1,129b; implementing K.S.A. 2015 Supp. 66-1,112, K.S.A. 2015 Supp. 66-1,129, and K.S.A. 2015 Supp. 66-1,129b; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended Oct.

2, 2009; amended Nov. 14, 2011; amended Sept. 20, 2013; amended May 6, 2016; amended P-____
_____.)

PROPOSED

82-4-21. Requiring insurance. The following types of carriers shall not operate a motor vehicle, trailer, or semitrailer for the transportation of persons or property within the provisions of the motor carrier law of this state until an insurance policy is filed in compliance with K.S.A. 66-1,128 and amendments thereto, and in accordance with the commission's regulations:

(a) Public motor carriers of property, household goods, or passengers; and

(b) private motor carriers of property ~~or household goods~~. (Authorized by K.S.A. 2009

Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective Jan. 1, 1971; amended May 1, 1981; amended, T-85-48, Dec. 19, 1984; amended May 1, 1985; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010; amended P-_____.)

PROPOSED

82-4-22. Intrastate insurance requirements. (a)(1) Before the commission issues a certificate, permit, or license to an applicant, the following types of applicant carriers shall obtain and keep in force a public liability and property damage insurance policy pursuant to K.S.A. 66-1,128, and amendments thereto:

(A) Public motor carriers of property, household goods, or passengers; and

(B) private motor carriers of property ~~or household goods~~.

(2) Each applicant shall submit proof of the required policy by filing the uniform standard insurance form as required by K.A.R. 82-4-24a. This policy shall be issued by an insurance company or association meeting the requirements of K.S.A. 66-1,128, and amendments thereto.

(3) The insurance policy shall bind the obligors to pay compensation for the following:

(A) Injuries or death to persons, except injury to the insured's employees while engaged in the course of their employment; and

(C) loss of, or damage to, property of others, not including property usually designated as cargo, resulting from the negligent operation of the carrier.

(4) Each carrier shall file online, at the national online registration (NOR) database administered by the motor carrier information exchange, proof of insurance in amounts not less than those required in K.S.A. 66-1,128, and amendments thereto. In special cases and for good cause shown, a carrier may be required by order of the commission to file insurance in additional amounts.

(b) ~~Each public motor carrier of property and household goods that conducts intrastate business shall keep in force a cargo insurance policy in a minimum amount of \$3,000. The motor carrier shall submit proof of the required policy by filing the uniform standard insurance form established in 49 C.F.R. Part 387 and adopted in K.A.R. 82-4-3n. This policy shall be issued by~~

~~an insurance company or association meeting the requirements of K.S.A. 66-1,128, and amendments thereto.~~

~~(e)~~ If a motor carrier is unable to provide the uniform standard insurance form required in subsection (a) ~~or (b)~~, the original or a certified copy of the policy with all endorsements attached may be temporarily accepted by the commission for 30 days. The motor carrier shall then file the form required in subsection (a) ~~or (b)~~ within the 30-day period.

~~(d)~~(c) Before the expiration date or cancellation date of an insurance policy filed in compliance with the law and the regulations of the commission, either the motor carrier shall file with the commission a new policy for the vehicle, or the vehicle shall immediately be withdrawn from service and notification of the action shall be given to the commission.

~~(e)~~(d) Operation by a motor carrier without compliance with this regulation shall result in emergency proceedings pursuant to K.S.A. 77-536, and amendments thereto, to suspend the certificate, permit, or license issued to the carrier. Each emergency order to cancel the certificate, permit, or license issued to the carrier shall be followed by a notice of the agency action and an opportunity for a hearing on the matter, pursuant to K.S.A. 77-536 and amendments thereto. (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. ~~2009 Supp.~~ 66-1,128; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1983; amended, T-85-48, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended Oct. 3, 1994; amended Jan. 4, 1999; amended, T-82-7-26-02, July 26, 2002; amended Oct. 18, 2002; amended Oct. 22, 2010; amended P-_____.)

82-4-24a. Standard insurance forms. (a) Each motor carrier shall use the uniform standard insurance forms established under 49 C.F.R. Part 387, as adopted by K.A.R. 82-4-3n.

(b) The uniform motor carrier bodily injury and property damage liability certificate of insurance shall be form E for intrastate regulated and interstate exempt motor carriers.

~~(c) The uniform motor carrier cargo certificate of insurance shall be form H for intrastate common carriers.~~

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

~~(e)~~(d) The uniform notice of cancellation of motor carrier insurance policies shall be form K. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 2009 Supp. 66-1,128; effective May 1, 1981; amended May 1, 1984; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010; amended P-_____.)

82-4-27. Applications for certificates of convenience and necessity and certificates of public service. (a) Each application for a certificate of convenience and necessity or a certificate of public service shall be typewritten or printed on forms furnished by the commission. An original and two copies shall be filed and shall contain the following information:

(1) The address of the applicant's principal office or place of business and the applicant's residential address;

(2) a list of each motor vehicle, by make, year, and vehicle identification number (VIN), to be used by the applicant. If buses are to be used, the seating capacity of each bus shall be included;

(3) the commodity or commodities listed on form ~~MCS-150~~ MCSA-1 that the applicant intends to transport; and

(4) evidence of compliance with the requirements of K.A.R. 82-4-26(b).

(b) If the commission deems a hearing necessary in order to evaluate an application for a certificate of public service, the applicant shall file testimony that details how the applicant is fit, knowledgeable of, and in compliance with all applicable safety regulations. (Authorized by K.S.A. ~~2012 Supp.~~ 66-1,112 and 66-1,117; implementing K.S.A. ~~2012 Supp.~~ 66-1,114, 66-1,114b, and 66-1,117; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987; amended Sept. 16, 1991; amended Oct. 3, 1994; amended Jan. 4, 1999; amended Jan. 31, 2003; amended Oct. 22, 2010; amended Sept. 20, 2013; amended P-_____.)

82-4-30a. Applications for interstate registration. (a)(1) For the purposes of this regulation, “base state” shall have one of the following meanings:

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

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

(2) 49 U.S.C. 14504a(a)(2), as in effect on ~~October 16, 2008~~ July 6, 2012, is hereby adopted by reference.

(3) Each interstate motor carrier designating Kansas as the carrier’s base state and operating in interstate commerce over the highways of this state under authority issued by the relevant federal agency shall file the uniform application for registration issued by the relevant federal agency. The carrier shall file this application for registration with the transportation division of the state corporation commission.

(b) Each interstate motor carrier designating Kansas as the carrier’s base state shall pay a fee to the state corporation commission. This fee shall be in accordance with the fee schedule in 49 C.F.R 367.30, as in effect on ~~April 27, 2010~~ October 1, 2015 and hereby adopted by reference.

(c) An interstate regulated motor carrier shall not operate in interstate commerce over the highways of this state unless the carrier is registered in the carrier’s base state ~~pursuant to 49 U.S.C. 14504a(a)(2)~~ as defined in paragraph (a)(1). (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112; implementing K.S.A. ~~2009 Supp.~~ 66-1,108b, 66-1,116 and 66-1,139; modified, L. 1981, ch. 424, May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended

Jan. 31, 2003; amended, T-82-10-8-07, Oct. 8, 2007; amended, T-82-12-10-07, Dec. 10, 2007;
amended July 18, 2008; amended, T-82-5-12-10, May 12, 2010; amended Oct. 8, 2010; amended
P-_____.)

PROPOSED

82-4-40. (Authorized by K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; implementing K.S.A. 66-1,108, K.S.A. 2009 Supp. 66-1,112, K.S.A. 66-1,112g; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 22, 2010; revoked P-_____.)

PROPOSED

82-4-42. Emergency and occasional equipment. (a) Holders of certificates, permits, and licenses who have motor vehicles registered with the commission and who have complied with all lawful requirements may in case of emergency be authorized by the commission by fax, internet communication, or otherwise, to operate additional equipment or special equipment in substitution of regular registered equipment. Any motor carrier authorized to operate in intrastate commerce may perform either of the following:

(1) Transfer Kansas operating authority from regularly registered equipment to temporary or new equipment online. Regular registered equipment for which special equipment is being substituted shall not be operated at the same time that the special equipment is being operated; or

(2) add the special equipment to the motor carrier's profile and submit payment of the registration fee. The registration fee for the additional or special equipment shall be \$10.00 for each truck or truck-tractor.

~~(b) If a seasonal emergency occurs, a motor carrier may obtain authorization to operate additional or special equipment according to any of the following:~~

~~(1) A 30-day temporary wire or letter of authority authorizing the use of additional or special equipment may be issued.~~

~~(2) The motor carrier may transfer registration from regularly registered equipment as described in paragraphs (a)(1) and (a)(2).~~

~~(3) The motor carrier may apply for Kansas permits online.~~

(e) Each motor carrier conducting point-to-point intrastate operations in Kansas shall have obtained appropriate commission operating authority pursuant to K.S.A. 66-1,114 and K.S.A. 66-1,115, and amendments thereto. A carrier registered to conduct both intrastate and interstate operations shall not be required to register equipment as specified in ~~subsections~~ subsection (a)

~~and (b).~~ (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112, K.S.A. 66-1,112g, K.S.A. ~~2009 Supp.~~ 66-1,140; implementing K.S.A. ~~2009 Supp.~~ 66-1,140; effective Jan. 1, 1971; amended May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010; amended P-_____.)

PROPOSED

82-4-44. (Authorized by K.S.A. 66-1,112, 66-1,119; effective Jan. 1, 1971; revoked P-_____
_____.)

PROPOSED

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

PROPOSED

82-4-48. Bills of lading, ~~waybills,~~ and freight bills. (a) Each common motor carrier of household goods electing to be governed by K.A.R. 82-4-48a, K.S.A. 66-304, and K.S.A. 84-7-101 through K.S.A. 84-7-603, and amendments thereto, shall issue a bill of lading for household goods tendered for intrastate commerce.

(b) Each common motor carrier transporting property, other than household goods, and electing to be governed by K.A.R. 82-4-48a, K.S.A. 66-304, and K.S.A. 84-7-101 through K.S.A. 84-7-603, and amendments thereto, shall issue a bill of lading for property tendered for intrastate commerce.

(c) Each bill of lading shall include the following:

- (1) The name and address of the motor carrier;
- (2) the name and address of the consignor and consignee;
- (3) the date of shipment;
- (4) the origin and destination of the shipment;
- (5) the signature of the motor carrier or its agent;
- (6) a description of the shipment, including the number of packages, or the weight or volume;
- (7) a released value clause as prescribed in K.S.A. 84-7-309, and amendments thereto, printed on the front of the document, if applicable; and
- (8) on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

(d) Bills of lading, ~~waybills,~~ and freight bills may be included on one form.

(e) Each transporter of crude petroleum oil, sediment oil, water, or brine shall require its drivers to possess a run ticket or equivalent documents as specified in K.A.R. 82-3-127.

(f) The documents required in subsections (a), (b), and (e) shall be ~~held~~ made available upon request for inspection by any authorized representative of the commission, the state highway patrol, or other law enforcement officers.

(g) The bill of lading, ~~waybill~~, freight bill, run ticket, or equivalent documents as specified in K.A.R. 82-3-127 shall be retained by the transporter for at least three years from the date of shipment. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended, T-83-45, Dec. 8, 1982; modified, L. 1983, ch. 362, May 1, 1983; amended Jan. 4, 1999; amended Oct. 22, 2010; amended P-_____.)

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

_____.)

PROPOSED

82-4-50. Passenger waiting rooms carriers. ~~A common motor carrier of passengers shall provide a suitable place adequately heated and ventilated at points where it is necessary that paid passengers wait an appreciable time before boarding buses or where it is necessary that paid passengers, holding tickets for through transportation, wait for a connection with another carrier to proceed on to final destination. Nothing in this rule shall be construed as requiring common motor carriers of passengers to provide waiting places along rural roadsides between villages or cities.~~ (a) With the following exceptions, 49 C.F.R. Part 374, as in effect on October 1, 2015, is hereby adopted by reference:

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

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

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

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

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

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

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

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

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

PROPOSED

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

PROPOSED

82-4-53. Common motor carrier rates and charges. (a) Common motor carriers of ~~property~~ household goods or passengers that are engaged in intrastate commerce in Kansas shall maintain on file with the commission a copy of the tariff publications applicable to their lines between points in Kansas. The carriers shall keep open for public inspection, at their principal offices and locations at which they have employed exclusive agents, all intrastate tariff publications applicable to their lines from or to their stations.

(b) Each change to a tariff publication shall be made subject to 30-day notice to the public and the commission, unless otherwise authorized by the commission. Tariff publications of motor carriers effecting changes resulting in increases in charges, either directly or by means of any change in the regulation or practice affecting a charge or value of service, may be filed on one-day notice to the commission and the public. Applicants granted new authority may file tariffs to be effective on one-day notice. Transferees may adopt the existing tariffs of transferors to be effective on one-day notice.

(c) Tariff publication, except general rate increases, shall not go into effect without prior approval of the commission. The publications shall be subject to protest and suspension. All publications shall be accompanied by a full and complete statement citing the reasons and justifications for the changes.

(d) General rate increases shall be made only by filing an application and after approval of the commission ~~by written order~~.

(e) Protests of tariff publications shall be considered only if received by the commission at least 12 days before the published effective date of publications. Pursuant to protest or on the commission's own motion without protest, postponement of an effective date may be ordered by the commission to permit the matter to be properly investigated. Unless

otherwise ordered by the commission, publication shall become effective as filed. Publications shall not be postponed to exceed 90 days.

(f) All tariff publications shall be made in compliance with the commission's regulations governing the publication and filing of ~~common motor carrier~~ household goods and passenger rates and charges. (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112; implementing K.S.A. 66-117, K.S.A. ~~2009 Supp.~~ 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010; amended P- _____.)

PROPOSED

82-4-56a. ~~Common motor~~ Household goods and passenger carrier tariffs. (a) Each tariff shall be typewritten, printed, or reproduced by other similar, durable process, upon paper of good quality, 8 by 11 or 8½ by 11 inches in size.

(b) The title page shall show the following information:

(1) In the upper right-hand corner, the K.C.C. number of the tariff and, immediately below that, the K.C.C. number of the tariff canceled, if any. The first tariff issued by each carrier shall be numbered “K.C.C. no. 1”; succeeding tariffs shall be numbered consecutively. This information may be shown elsewhere on the page or on the second page of the tariff, if ~~it~~ the tariff applies to interstate as well as intrastate traffic;

(2) the name of the carrier, individual, or organization issuing the tariff;

(3) the names of the participating carriers or a reference to the page in the tariff containing that information;

(4) if the tariff is a passenger or household goods tariff, the tariff names’ class rates, commodity rates, mileages, rules, one-way fares, round-trip fares, excursion fares, and appropriate designation, if the tariff applies to local traffic, joint traffic, or both;

(5) ~~the territories or points between which the tariff applies, briefly stated;~~

~~(6)~~ (6) specific reference to the classification and to publications containing any exceptions to the classification governing the rates named in the tariff;

~~(7)~~ (6) the issued and effective dates; and

~~(8)~~ the commission’s motor carrier identification number assigned; and

~~(9)~~ (7) the name, title, and complete address of the party issuing the tariff.

(c) The requirements of subsection (a) shall be observed in the construction of circulars and other governing tariff publications. Tariff supplements shall be numbered consecutively, beginning with the number one, and shall show the K.C.C. number of the publication amended, the number of any previous supplements or tariffs canceled, and numbers of the supplements containing all changes from the original publication. This information shall appear in the upper right-hand corner of the supplement unless the supplement applies to interstate as well as intrastate traffic, in which case the information may be shown elsewhere on the title page or on the second page.

(d) ~~All~~ Each household goods ~~tariffs~~ tariff shall contain the following information:

(1) In clear and explicit language, all terms, additional charges, and privileges applicable in connection with the rates and charges named in the tariff, or specific reference to publications naming these terms, additional charges, and privileges;

(2) any exceptions to the application of rates and charges named in the tariff;

(3) a full explanation of reference marks and technical abbreviations used in the tariff;

(4) rates in either cents or dollars and cents per 100 pounds or per ton of 2,000 pounds or other definite measure; and

(5) the method by which the distance rates shall be determined. Specific point-to-point rates shall be published whenever practicable.

(e) ~~All~~ Each passenger ~~tariffs~~ tariff shall show the following information:

(1) ~~Adult~~ Fares, definitely and specifically stated in cents or in dollars and cents, ~~per passenger, together with the names of the stations or the stopping places for which the fares apply, arranged in a simple and systematic manner; and~~

(2) the identification of terms, agreements, or other documentation that is applicable or contains specific reference to the publications in which the fares will be found. (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112; implementing K.S.A. 66-117, K.S.A. ~~2009 Supp.~~ 66-1,112; effective May 1, 1981; amended Jan. 4, 1999; amended Oct. 22, 2010; amended P-
_____.)

PROPOSED

82-4-57. Powers of attorney and concurrences. (a) A ~~common~~ household goods or passenger carrier desiring ~~wanting~~ to give a power of attorney to an agent to issue and file tariffs and supplements for the carrier shall file notice of this intention on a form approved by the commission.

(b) If a ~~common~~ household goods or passenger carrier desires ~~wants~~ to concur in tariffs issued and filed by another carrier or by its agent, a concurrence in substantially the same form as that prescribed by the USDOT for use in similar instances, with reference to the interstate tariffs, shall be issued in favor of the issuing carrier.

(c) The original of all powers of attorney and concurrences shall be filed with the commission, and a duplicate of the original shall be sent to the agent or carrier on whose behalf the document is issued.

(d) If a ~~common~~ household goods or passenger carrier wishes ~~wants~~ to revoke a power of attorney or concurrence, a notice shall be filed with the commission, the carrier's agent or agents, and any other carrier affected by the revocation. The notice shall be filed at least 30 days before the effective date. (Authorized by and implementing K.S.A. 2009 Supp. 66-1,112; ~~implementing~~ K.S.A. 2009 Supp. 66-1,112; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1984; amended Jan. 4, 1999; amended July 14, 2000; amended Oct. 22, 2010; amended P-_____.)

82-4-58d. (Authorized by and implementing K.S.A. 1997 Supp. 66-1,112; effective May 1, 1987; amended Jan. 4, 1999; revoked P- _____.)

PROPOSED

82-4-63. Contested and uncontested motor carrier hearings. An application for a common carrier certificate of convenience and necessity; or a certificate of public service, ~~or abandonment of a common carrier certificate~~ shall be considered as contested if either protestants or intervenors, or both, appear at the hearing held on the application and present testimony or evidence in support of their contentions, present a question or questions of law, or cross-examine the applicant's witnesses with regard to the application. If neither protestants nor intervenors appear and offer testimony or evidence in support of their contentions, raise a question of law, or cross-examine the applicant's witnesses with reference to any pending application, the application shall be considered as uncontested. (Authorized by K.S.A. 66-106, ~~K.S.A. 2009 Supp. 66-1,112~~; implementing K.S.A. 66-106, ~~K.S.A. 2009 Supp. 66-1,114, 66-1,115~~, and 66-1,119; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1987; amended Jan. 4, 1999; amended Oct. 22, 2010; amended P-_____.)

82-4-65. Protestants. Each protest against the granting of a permit, certificate, extension, ~~abandonment~~, or transfer shall be considered as follows:

(a) Any interested person who believes that the public will be adversely affected by a proposed application may file a written protest. The protest shall identify the name and address of the protestant and the title and docket number of the proceeding. The protest shall include specific allegations as to how the applicant is not fit, willing, and able, or fit, knowledgeable, and in compliance with the commission safety regulations, to perform these services or how the proposed services are otherwise inconsistent with the public convenience and necessity.

(b) If the protestant opposes only a portion of the proposed application, the protestant shall state with specificity the objectionable portion.

(c) The protest shall be filed in triplicate with the commission within 10 days after publication of the notice in the Kansas register. Failure to file a timely protest shall preclude the interested person from appearing as a protestant.

(d) Each protestant shall serve the protest upon the applicant ~~at the same time~~ when or before the protestant files the protest with the commission. The protest shall not be served on the applicant by the commission.

(e) To secure consideration of a protest, the protestant; or intervenor; ~~or a designated representative, as defined in K.A.R. 82-4-63,~~ shall offer evidence or a statement or shall participate in the hearing. (Authorized by K.S.A. ~~2009 Supp.~~ 66-1,112; implementing K.S.A. ~~2009 Supp.~~ 66-1,114; effective Jan. 1, 1971; amended May 1, 1981; amended May 1, 1985; amended May 1, 1987; amended May 1, 1988; amended Jan. 4, 1999; amended Oct. 22, 2010; amended P- _____.)

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

PROPOSED

82-4-68. Collective rate-making agreements. (a) Motor carriers of ~~property household~~ goods and passengers, ~~joint line rates, and national motor freight classification~~ may enter into an agreement with one or more of these carriers concerning rates, allowances, classifications, divisions, or rules related to them or procedures for joint consideration, initiation, or establishment of them. The agreement and all amendments shall be submitted to the commission for approval by the carriers that are parties to the agreement and shall be approved by the commission upon a finding that the agreement fulfills the requirements of K.S.A. 66-1,112, and amendments thereto, and the ~~rules and~~ regulations of the commission. The agreement shall be administered by an organization designated by the carriers who are parties to the agreement.

(b) The agreement shall contain, at a minimum, provisions for the following:

- (1) Election of rate committees and procedures for appointments to fill vacancies;
- (2) initiation of rate proposals;
- (3) ~~record keeping~~ recordkeeping;
- (4) tariff participation fees for services;
- (5) open meetings;
- (6) quorum standards;
- (7) proxy voting by members;
- (8) role of employees in docketing proposals;
- (9) notice of docket proposals and rate committee hearings;
- (10) voting on rate proposals by member carriers;
- (11) right of independent action;
- (12) docketing of independent action;
- (13) the names, addresses, and telephone numbers of carriers who are parties to the

agreement;

(14) the names and addresses of each of its affiliates and of officers and directors of the carriers who are parties to the agreement;

(15) the carriers' motor carrier identification number assigned by the commission;

(16) the name, address, and telephone number of the organization that will administer the agreement;

(17) final disposition of cases docketed;

(18) prohibitions of the organization from protesting carrier proposals;

(19) amendments to the agreement; and

(20) powers of attorney. (Authorized by and implementing K.S.A. 1997 Supp. 66-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999; amended P- _____.)

82-4-85. Rate applications filed by carriers party to a collective rate-making

agreement. (a) ~~Carriers~~ Each carrier that is a party to a collective rate-making agreement who file and files an application proposing a general increase or decrease in rates shall submit with the application schedules indicating to the commission the nature and extent of the proposed changes to be effected.

(b) ~~Applications~~ Each application shall be based upon data submitted for a test year. ~~The commission may disapprove, for good cause, the test year selected by the applicant.~~

~~The original and nine copies of the application and schedules shall be filed with the commission by electronic mail. Each application and schedule shall be bound together under one loose-leaf binder. If the bulk of the material would make this handling impractical, two or more volumes in loose-leaf form shall be filed. The size of print used in the application and schedules shall be clearly legible. Negative numbers shall be shown in parentheses. Amounts included in the application shall be cross-referenced between the appropriate summary schedule and supporting schedules, as well as among the various sections. Referencing shall include allocation ratios, when appropriate. All items shall be self-explanatory. Additional information, cross-references, or explanatory footnotes shall be presented on the schedule. The application shall be supported by schedules as set out below~~ specified in this subsection and shall be assembled under topical sections, with ~~index tabs for each section~~ each section clearly identified and a page number for each schedule. The form, order, and titles of each section shall be prescribed as follows: ;

(1) Application, letter of transmittal, and authorization. This section shall contain a copy of the application, a copy of the letter of transmittal, and an appropriate document or documents authorizing the filing of the application, if any.

(2) General information and publicity. This section shall list the means employed by the carriers to acquaint the general public affected by the proposed rate change with the nature and extent of the proposal. These methods may include meetings with public officials, shippers, and citizen groups; newspaper articles; and advertisements. This section shall include general information concerning the application that will be of interest to the public and suitable for publication. That information shall include the following, ~~when~~ if applicable:

(A) The percent and dollar amount of the aggregate annual increase or decrease that the application proposes; and

(B) any other pertinent information that the applicant ~~may desire~~ wants to submit.

(3) List of carriers participating in the application. This list shall show the motor carrier identification number and the name and address of each carrier that is a participant in the application.

(4) List of carriers in the study group. The list shall state the carriers used in the study group. A detailed explanation of how the study group of carriers was selected shall also accompany this section.

(5) Study group carriers' operating ratios. This section shall contain the Kansas intrastate operating ratios for the actual test year for the study group carriers.

(6) Study group carriers' ~~;~~ test year and pro forma income statements. This section shall present the following:

(A) An operating income statement for each of the study group carriers and a composite statement of all the study group carriers depicting the unadjusted test year operations for the total system; and

(B) a second schedule that expands the actual system composite income statement to a Kansas intrastate operations income statement. This statement shall be adjusted to show pro forma test year operations. Supporting schedules shall set forth a full and complete explanation of the purpose and rationale for the pro forma adjustments. The pro forma adjustments may include adjustments to reflect the elimination or normalization of nonrecurring and unusual items, and adjustments for known or determinable changes in revenue and expenses.

(7) Capital and cost of money. This section shall be prepared for each participating carrier having total Kansas intrastate system revenue of one million dollars or more. ~~¶~~ This section shall contain the following:

(A) A schedule indicating the amounts of the major components of the capital structures of the carrier that are outstanding at the beginning and at the end of the test year. This schedule shall contain the ratios of each component to the total capital;

(B) a schedule disclosing the cost of each issue of debt and preferred stock outstanding, with due allowance for premiums, discounts, and issuance expense. Data relating to the other components of capital shall be shown, if appropriate; and

(C) if the applicant is a part of a consolidated group or a division of another company, the consolidated capital structure shall be included in this section.

(8) The proposed tariffs. The application shall contain the proposed tariffs requested for approval.

(9) (c) Prefiled testimony shall be required in all transportation rate cases filed by a tariff publishing organization, and all prefiled testimony shall be filed simultaneously with the filing of the application.

~~(10) (d) All of the above requirements shall be completed and in proper form.~~
Applications Each application found to be incomplete or not in the form prescribed ~~above~~ in this regulation shall be rejected by the commission. (Authorized by and implementing K.S.A. 1997 266-1,112; effective, T-83-45, Dec. 8, 1982; effective May 1, 1983; amended Jan. 4, 1999; amended P- _____.)

PROPOSED

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

PROPOSED