Kansas Administrative Regulations

Kansas Corporation Commission

Article 4.—Motor Carriers of Persons and Property—Motor Carriers

82-4-3c. Testing for controlled substances and alcohol use.

(a) With the following exceptions, 49 C.F.R. Part 382, as in effect on October 1, 2022, 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, K.S.A. 8-2,125 et seq."

(C) 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."

(D) In paragraph (d)(1), the phrase "part 655 of this title" shall be replaced with "49 C.F.R. Part 655."

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

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

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

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

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

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

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

(B) The definition of "commerce" shall be deleted and replaced by the following: "'Commerce' means any trade, traffic or transportation within the jurisdiction of the state of Kansas, and any trade, traffic and transportation which affects any trade, traffic and transportation within the jurisdiction of the state of Kansas."

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

(D) In the definition of "controlled substances," the phrase "those substances identified in § 40.85 of this title" shall be deleted and replaced by "marijuana metabolites, cocaine metabolites, amphetamines, opioids and phencyclidine (PCP)."

(E) In the definition of "DOT agency," the phrase "part 40 of this title" shall be deleted and replaced by "49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b, or the Kansas Corporation Commission."

(F) In the definition of "negative return-to-duty test result," the phrase ", as described in 40.305 of this title" shall be deleted.

(G)(i) In paragraph (1) of the definition of "refuse to submit," "(see § 40.61(a) of this title)" shall be deleted.

(ii) In paragraphs (2) and (3) of the definition of "refuse to submit," "(see § 40.63(c) of this title)" shall be deleted.

(iii) In paragraph (4) of the definition of "refuse to submit," "(see §§ 40.67(l) and 40.69(g) of this title)" shall be deleted.

(iv) In paragraph (5) of the definition of "refuse to submit," "(see § 40.193(d)(2) of this title)" shall be deleted.

(v) In paragraph (7) of the definition of "refuse to submit," the phrase "under § 40.193(d) of this title" shall be deleted.

(H)(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) In 49 C.F.R. 382.115, the phrase "in the United States" shall be deleted and replaced by "in the state of Kansas."

(6) 49 C.F.R. 382.117 shall be deleted.

(7) 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."

(8) 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."

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

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

(B) In paragraph (b), the phrase "21 CFR part 1308" shall be deleted and replaced by "21 C.F.R. Part 1308, dated October 1, 2022, and hereby adopted by reference."

(10) In 49 C.F.R. 382.217, the phrase "in 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."

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

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

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

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

(12) The following revisions shall be made to 49 C.F.R. 382.303:

(A) In 49 C.F.R. 382.303(h)(3), the phrase "(as defined in 571.3 of this title)" shall be deleted and replaced with ", meaning a motor vehicle with motive power, except a low-speed vehicle or trailer, designed to carry 10 or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation,".

(B) 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."

(13) In 49 C.F.R. 382.305, paragraphs (c) through (h) shall be deleted.

(14) 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."

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

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

(B) In paragraph (c)(2)(iii), the phrase ", including those required by part 40, subpart G, of this title" shall be deleted.

(C) In paragraph (c)(5)(iv), the phrase "as required by § 40.213(g) of this title" shall be deleted and replaced by "demonstrating one meets all requirements for such a position."

(D) In paragraph (c)(6)(iii), the phrase "§ 40.111(a) of this title" shall be deleted.

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

(F) Paragraph (e) shall be deleted.

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

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

(A) In paragraph (g), the phrase "in accordance with § 40.323(a)(2) of this title" shall be deleted and replaced by "pursuant to a court order."

(B) In paragraph (h), the phrase "as outlined in § 40.321(b) of this title" shall be deleted.

(18) 49 C.F.R. 382.407 and 382.409 shall be deleted.

(19) In 49 C.F.R. 382.413 the phrases "§ 40.25 of this title" and "§ 40.25 (b)(5) of this title" shall be deleted and replaced by "49 C.F.R. 40.25 as adopted by K.A.R. 82-4-3b."

(20) In 49 C.F.R. 382.415, the phrase "part 40 of this title or this part without complying with the requirements of part 40, subpart O" shall be replaced with "49 C.F.R. Part 40 as adopted by K.A.R. 82-4-3b or has failed to be cleared by a DOT certified substance abuse professional."

(21) 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."

(22) 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."

(23) 49 C.F.R. 382.507 shall be deleted.

(24) 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."

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

(26) The following revisions shall be made to 49 C.F.R. 382.701:

(A) In paragraphs (d)(1) and (2), the phrase "part 40, subpart O, of this title" shall be replaced with "part 40, subpart O, of this title as adopted by K.A.R. 82-4-3b."

(B) In paragraph (d)(2), the phrase "in accordance with 40.307 of this title" and "required by 40.311 of this title" shall be deleted.

(27) The following changes shall be made to 49 C.F.R. 382.705:

(A) Paragraph (a) shall be deleted.

(B) In paragraph (b), the following changes shall be made:

(i) In paragraph (b)(1)(iii), the phrase "49 C.F.R. 40.261" shall be replaced by "49 C.F.R. 40.261 as adopted by K.A.R. 82-4-3b."

(ii) In paragraph (b)(1)(iv), the phrase "as adopted by K.A.R. 82-4-3b" shall be inserted after "(a)(8) through (11)."

(iii) In paragraph (b)(1)(v), the phrase "in accordance with 40.307, 40.309, and 40.311 of this title" shall be deleted.

(iv) In paragraph (b)(3), the phrase "as adopted by K.A.R. 82-4-3b" shall be inserted after "40.191(a)(1)."

(C) Paragraph (d) shall be deleted.

(28) 49 C.F.R. 382.707 shall be deleted.

(29) In 49 C.F.R. 382.711, paragraphs (c) and (d) shall be deleted.

(30) In 49 C.F.R. 382.713 (c), the phrase "as adopted by K.A.R. 82-4-3b" shall be inserted after "part 40 of this title."

(31) In 49 C.F.R. 382.715, paragraph (b) shall be deleted.

(32) 49 C.F.R. 382.717 through 382.721 shall be deleted.

(33) The following revisions shall be made to 49 C.F.R. 382.723:

(A) In paragraph (c), the phrase "including those set forth at 382.507" shall be deleted.

(B) In paragraph (d), the term "FMCSA" shall be followed by the phrase "or Kansas Corporation Commission."

(34) 49 C.F.R. 382.725 and 49 C.F.R. 382.727 shall be deleted.

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

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

(Authorized by and implementing K.S.A. 2023 Supp. 66-1,112, K.S.A. 66-1,112g, and K.S.A. 66-1,129; effective, T-82-12-29-04, Dec. 29, 2004; effective April 29, 2005; amended Oct. 2, 2009; amended Sept. 20, 2013; amended July 26, 2019; amended Feb. 10, 2023; amended Dec. 6, 2024.)

***** Authenticated Kansas Administrative Regulation *****