

STATE OF KANSAS
STATE CORPORATION COMMISSION

Notice of Public Hearing on Proposed Administrative Regulation
K.A.R. 82-4-30a

October 29, 2020

The State Corporation Commission (Commission) will conduct a public hearing at 10:00 a.m. on Tuesday, January 12, 2021, to consider the adoption of the proposed regulation K.A.R. 82-4-30a on a permanent basis. In response to concerns related to COVID-19, the public hearing of the Commission shall be held by video conference. Anyone desiring to participate in the public hearing video conference must pre-register at: [https://zoom.us/meeting/register/tJctcOmqrzkiGt1sWCtAoV4wyAcv2RvMv75J](https://zoom.us/join/zoom/register/tJctcOmqrzkiGt1sWCtAoV4wyAcv2RvMv75J). The meeting will also be audio streamed live on the Kansas Corporation Commission website (<https://kcc.ks.gov>).

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

All interested parties may submit written comments prior to the hearing by utilizing the online comment form on the Kansas Corporation Commission website (<http://kcc.ks.gov/your-opinion-matters>). All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to ask that each participant limit any oral presentation to five (5) minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five (5) working days in advance of the hearing by contacting Dennis Peerenboom at (785) 271-3161 or the Kansas Relay Center at 1-800-766-3777.

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

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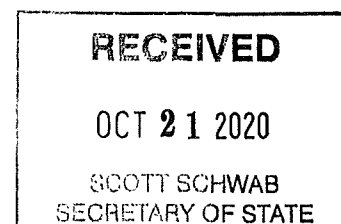
K.A.R. 82-4-30a. Applications for interstate registration.

This existing regulation adopts relevant portions of the Federal Motor Carrier Safety Administration ("FMCSA") regulations (49 C.F.R. Part 367) and Unified Carrier Registration (UCR) Act (49 U.S.C. 14504a) which together establish the rules and registration fees owed by carriers based in Kansas that operate interstate. The proposed changes to this regulation include the following:

- **Adoption of 2021 UCR fees** – The UCR fees owed by interstate carriers based in Kansas have declined each year from 2017 through 2020. In 2021 the fees will remain the same as 2020. Adoption of the proposed changes allows the Kansas Corporation Commission and Kansas Highway Patrol to continue to enforce the existing fee schedule into 2021.
- **Relevant Portions of the UCR Act** – The proposed changes adopt additional portions of the federal statute authorizing the Unified Carrier Registration Act to be enforced by states. The portions include definitions unique to the UCR Act and certain enforcement procedures that were not previously adopted.
- **National Registration System** - The proposed update directs carriers to pay their UCR fees through the National Registration System which utilizes the UCR website to pay their UCR fees.

K.A.R. 82-4-30a: Economic Impact Summary

The Transportation Division of the Commission anticipates the proposed changes would not have any change in economic impact on Kansas based motor carriers operating interstate. This is because the 2021 UCR fee schedule does not change from 2020, but instead allows the same fee schedule to apply to future years. Government agencies and the general public should see no economic impact from the changes in this regulation.



82-4-30a. Applications for interstate registration. (a)(1) For the purposes of this regulation, “base state” shall have one of the following meanings:

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

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

(2) 49 U.S.C. 14504a(a)(2), as in effect on ~~July 6, 2012~~ January 14, 2019, is hereby adopted by reference, except for the following portions:

(A) In 49 U.S.C. 14504a(a), the following:

(i) The phrase “and section 14506 (except as provided in paragraph (5))”;

(ii) 49 U.S.C. 14504a(a)(3);

(iii) 49 U.S.C. 14504a(a)(5)(B); and

(iv) 49 U.S.C. 14504a(a)(6) through (7);

(B) 49 U.S.C. 14504a(c) through (e);

(C) In 49 U.S.C. 14504a(f), 49 U.S.C. 14504a(f)(1)(B) through (E); and

(D) 49 U.S.C. 14504a(g) through (j).

(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

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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 through the national registration system. This fee shall be in accordance with the fee schedule in 49 C.F.R ~~367.30~~ 367.60, as in effect on October 1, 2015 2019 and as amended by 85 fed. reg. 8198 (2020), which is hereby adopted by reference.

(c) An interstate regulated motor carrier shall not operate in interstate commerce over the highways of this state unless the carrier is registered in the carrier's base state as defined in paragraph (a)(1). (Authorized by K.S.A. 66-1,112; implementing K.S.A. 66-1,108b, 66-1,116, and 66-1,139; modified, L. 1981, ch. 424, May 1, 1981; amended Oct. 3, 1994; amended Jan. 4, 1999; amended July 14, 2000; amended Jan. 31, 2003; amended, T-82-10-8-07, Oct. 8, 2007; amended, T-82-12-10-07, Dec. 10, 2007; amended July 18, 2008; amended, T-82-5-12-10, May 12, 2010; amended Oct. 8, 2010; amended July 26, 2019; amended, T-_____, _____; amended P-_____.)

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Kansas Corporation Commission
Ahsan Latif: (785)271-3118, a.latif@kcc.ks.gov

Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget
K.A.R. 82-4-30a (permanent version)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt along with the following to the Division of the Budget.

I. Brief description of the proposed rule(s) and regulation(s).

This existing regulation adopts federal regulations for Unified Carrier Registration that allow the State to collect registration fees under the revised Federal Unified Carrier Registration Agreement. Kansas is required to adopt by reference the UCR fee schedule to remain in compliance with the Unified Carrier Registration System. Adoption of the latest amendments to 49 C.F.R. 367.60 allows the KCC to adopt the fee schedule into 2021. The fees remain the same as those in 2020.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

The adoption of this regulation is required by the federal government under 49 C.F.R. Part 350. Adoption of this regulation permits the Commission the ability to enforce the existing regulations as required by state and federal law.

If periodic updates to the Kansas motor carrier regulations are not conducted, the Commission becomes non-compliant with its requirement to maintain substantial compliance with the Federal Motor Carrier Safety Regulations pursuant to 49 C.F.R. Part 350. This non-compliance would carry the following monetary consequences on both existing and future funding:

- All MCSAP Basic and Incentive funding would be suspended. No additional grant funds could be applied for; and
- Multiple state agencies (KDOR, KCC, KDOT, KHP) currently hold the following grants: MCSAP, CVISN, HP, PRISM, SaDIP and New Entrant. In addition to future applications being denied, any remaining money in these account balances would not be able to be vouchered against.

III. Agency analysis specifically addressing following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;**

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The change adopts and updates references to most recent version of the federal statute and regulation, allowing the state of Kansas to enforce updates to the Unified Carrier Registration Agreement into 2021.

- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;**

The change allows for more clarity of enforcement and compliance with the regulation. The fee structure has consistently reduced as more carriers pay into the fund. From 2020 to 2021 the fees will remain the same.

- C. Businesses that would be directly affected by the proposed rule and regulation;**

Carriers operating in interstate commerce that are based in Kansas.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;**

The change allows for more clarity of enforcement and compliance with the regulation. The KCC will be able to enforce the current fee structure into 2021.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

The Commission does not anticipate an economic impact resulting from the adoption of this proposed regulation, UCR fees decreased from 2019 to 2020 and will remain the same for 2021.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$00.00

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$00.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

APPROVER YES ☐ NO ☒

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Give a detailed statement of the data and methodology used in estimating the above cost estimate.

There is not a substantial change in the obligations placed on motor carriers by adoption of the proposed regulation. The proposed regulation would allow the KCC's Transportation Division to continue to enforce UCR registration as it currently does.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

n/a

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

The Commission's Transportation Division met with leaders of the Kansas Motor Carrier Association, Kansas Highway Patrol and Federal Motor Carrier Safety Administration officials in Kansas to discuss changes being made to this regulation.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

n/a

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