Agency 36

Kansas Department of Transportation

Editor's Note:
This agency was formerly entitled "Highway Commission." The Highway Commission was reorganized as the Department of Transportation in 1975, see L. 1975, ch. 426, § 4.

Articles

36-1. Special Permits, Loads and Vehicles.
36-2. Vehicles Carrying Emergency Equipment.
36-3. Highway Entrance Permits.
36-4. Saddlemounts and Transportation of Empty Trucks.
36-5. Approval of Brake Fluid. (Not in active use)
36-6. Minimum Standards; Anti-freeze Compounds. (Not in active use)
36-7. Stud Tires.
36-8. Approval of Lighting Devices. (Not in active use)
36-9. Approval of Safety Glass. (Not in active use)
36-10. Traffic Control Devices. (Not in active use)
36-11. Public and Private Utilities on Highway Right-of-Way.
36-12. Controlled Access Highways. (Not in active use)
36-13. School Bus Transportation.
36-14. Interstate Highway System; Use.
36-15. Motorcyclists.
36-16. Highway Relocation Assistance.
36-17. Billboards and Outdoor Advertising.
36-18. Lights on Highway Construction and Maintenance Vehicles.
36-19. Standard for Slow-Moving Vehicle Identification Emblem.
36-20. Registration of Motor Vehicles. (Not in active use)
36-21. Operators' and Chauffeurs' Licenses. (Not in active use)
36-22. Safety Responsibility. (Not in active use)
36-23. Refusal to Take Blood Alcohol Test. (Not in active use)
36-24. Reissue Title. (Not in active use)
36-25. Transportation of Hazardous Materials. (Not in active use)
36-26. Railroad Grade Crossings.
36-27. Junkyard and Salvage Control.
36-28. Service Brakes and Second Towed Vehicles.
36-29. Payment of Moving Expenses.
36-30. Construction Bidding Procedures.
36-31. Debarment and Suspension of Contractors.
36-32. Use of Roadside Facilities.
36-33. Weight Limits for Trucks. (Not in active use)
36-34. Child Passenger Safety.
36-35. Transporting Two Combine Headers.
36-36. Widths of Vehicles and Loads.
36-37. The Oilfield Certification Program.

Articles

36-38. The Multi-Jurisdictional Oversize, Overweight Permit Program.
36-39. Rail Service Assistance Program.
36-40. Transportation Revolving Fund.
36-41. Public Safety Communication System and Revolving Fund.

Article 1.—SPECIAL PERMITS, LOADS AND VEHICLES

36-1-1. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1908, 8-1909, K.S.A. 1989 Supp. 8-1904, as amended by L. 1990, Ch. 50, Sec. 3, and K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sec. 4; effective Jan. 1, 1966; amended, E-70-14, Jan. 19, 1970; amended, E-70-23, April 29, 1970; amended Jan. 1, 1971; amended, E-71-32, Aug. 1, 1971; amended Jan. 1, 1972; amended May 1, 1979; amended May 1, 1983; amended March 4, 1991; revoked Aug. 15, 1997.)

36-1-1a. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1902, 8-1911; effective May 1, 1983; revoked Aug. 15, 1997.)

36-1-2. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-3. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-4 to 36-1-6. (Authorized by K.S.A. 8-1911; effective Jan. 1, 1966; revoked May 1, 1979.)

36-1-7. (Authorized by K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; revoked May 1, 1983.)

36-1-8. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-9. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended, E-70-14, Jan. 19, 1970; amended Jan. 1, 1971; modified, L. 1979, ch. 347, May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-10. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-11. (Authorized by K.S.A. 8-1911; effective Jan. 1, 1966; revoked May 1, 1979.)

36-1-12. (Authorized by K.S.A. 75-5004; effective Jan. 1, 1966; amended, E-70-14, Jan. 19, 1970; amended, E-70-19, March 18, 1970; amended Jan. 1, 1971; amended May 1, 1976; revoked May 1, 1979.)

36-1-13. (Authorized by K.S.A. 74-2004; effective Jan. 1, 1966; amended, E-68-2, Dec. 4, 1967; amended, E-68-11, March 19, 1968; amended Jan. 1, 1969; amended, E-70-14, Jan. 19, 1970; amended, E-70-19, March 18, 1970; amended Jan. 1, 1971; amended May 1, 1976; revoked May 1, 1979.)

36-1-14 to 36-1-17. (Authorized by K.S.A. 8-5,122; effective Jan. 1, 1966; revoked May 1, 1979.)

36-1-18. (Authorized by K.S.A. 74-2004; effective, E-70-8, Dec. 4, 1969; effective Jan. 1, 1971; amended May 1, 1976; revoked May 1, 1979.)

36-1-19. Not in active use.

36-1-20. (Authorized by K.S.A. 1970 Supp. 8-5,144, 8-5,122; effective Jan. 1, 1971; revoked May 1, 1979.)

36-1-21. (Authorized by K.S.A. 68-404(k), 74-2004, 77-415, K.S.A. 1974 Supp. 8-1911(c); effective, E-72-18, July 6, 1972; effective, E-74-15, Jan. 9, 1974; effective May 1, 1975; revoked May 1, 1979.)

36-1-22. (Authorized by K.S.A. 1978 Supp. 66-1326; effective May 1, 1979; revoked May 1, 1983.)

36-1-23. (Authorized by K.S.A. 8-1911; modified, L. 1979, ch. 347, May 1, 1979; revoked May 1, 1983.)

36-1-24 and 36-1-25. (Authorized by

K.S.A. 8-1911; effective May 1, 1979; revoked May 1, 1983.)

36-1-26. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; modified, L. 1979, ch. 347, May 1, 1979; modified, L. 1983, ch. 352, May 1, 1983; revoked Aug. 15, 1997.)

36-1-27. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective May 1, 1979; amended May 1, 1983; revoked Aug. 15, 1997.)

36-1-28. Special vehicle combinations. (a) Notwithstanding any other regulation, special vehicle combination permits may be issued for a combination of vehicles which exceeds the size and length restriction requirements in K.S.A. 8-1904 and amendments thereto.

(b) A "special vehicle combination" for the purposes of these regulations means a truck-tractor semitrailer-trailer-trailer combination of vehicles. A trailer may consist of a converter dolly and a semitrailer. No converter dolly shall be pulled behind the third trailer. A "special vehicle combination" shall hereby be referred to as "SVC" and the Kansas department of transportation shall hereby be referred to as "KDOT."

(c) Any applicant/owner who applies for an annual SVC permit shall furnish the following before the permit may be issued:

(1) a description of the applicant/owner's training and supervisory programs for drivers;

(2) a description of the applicant/owner's shop facilities and maintenance programs for equipment;

(3) a description of the applicant/owner's compliance with driver qualification standards;

(4) a description of the applicant/owner's safety program;

(5) a list of vehicles for which permits are being applied for including model and vehicle identification numbers;

(6) a list showing the names of drivers to be certified; and

(7) the necessary maps showing all route information to and from the applicant/owner's terminal.

(d) Annual certification shall be required for every SVC. All requests for certification or recertification shall be submitted:

(1) in writing to KDOT, special permit section;

(2) at least one month prior to the expiration of the current permit.

(e) Once certification is approved, the applicant/owner may apply for an annual SVC permit. The application shall include all applicable fees.

(f) Upon approval of the application and payment of associated fees, KDOT will issue annual SVC permits showing the model and vehicle identification numbers (VIN) of the vehicles being certified and provide the applicant/owner with driver certification cards both of which shall be carried in the SVC whenever it is operating. Permits and VIN information shall be displayed to any law enforcement officer, Kansas highway patrol officer or employee of KDOT upon request.

(g) In addition to the annual SVC permit, the applicant/owner must obtain all other necessary permits for travel in Kansas.

(h) SVC permits shall be $2000.00 per year for each qualified applicant/owner company plus $50.00 per year for each special vehicle combination power unit operating under such annual SVC permit. Lost or destroyed SVC permits may be reissued upon request to KDOT.

(i) Access routes to terminals will be designated on each annual SVC permit. Such terminal shall be within five miles of the interstate. The applicant/owner shall ensure that the SVC can safely maneuver through any construction work zones or detours. Any deviation from this route must be authorized by a representative of the special permit section of KDOT.

(j) SVC travel may be prohibited or restricted to specific routes, hours of operation, specific days, or seasonal periods, when adverse conditions, traffic, weather or safety considerations make such travel unsafe or inadvisable. A SVC shall not be dispatched during adverse weather conditions, such as high winds, snow, ice, sleet, hail, fog, mist, rain, dust, smog, or smoke. If adverse weather or road conditions are encountered during operation, the driver of the SVC shall:

(1) proceed to the next available exit and wait for conditions to improve; or

(2) proceed to the next available exit and detach a trailer.

(k) No movement of a SVC is allowed on holidays or holiday weekends.

(l) Every applicant/owner approved to operate an SVC shall provide the KDOT special permit section all information relating to accidents, operational costs, safety inspections, equipment, maintenance, Motor Carrier Safety Assistance Program (MCSAP) out-of-service reports or other pertinent operational information.

(m) Notwithstanding other state and federal requirements for reporting motor vehicle accidents, a copy of any accident report involving the SVC being operated under an annual SVC permit shall be delivered or mailed to KDOT, special permit section, within 10 days of the accident. If the accident involves a death, within 24 hours the carrier must provide the information specified in section 394.7(b) of the federal motor carrier safety regulations manual, as in effect April 1, 1990 and adopted herein by reference, to KDOT, special permit section. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-29. Violations. (a) The Kansas highway patrol and any local law enforcement agency (enforcement agency) have the authority to enforce the provisions of these SVC regulations.

(b) In the event any SVC does not comply with the restrictions as specified in K.S.A. 1989 Supp. 8-1908, the enforcement agency has the discretionary authority to request the driver to shift or remove any portion of the load or to adjust the configuration in order to bring the SVC into compliance.

(c) The enforcement agency may require the detaching of a trailer if the SVC or driver is in violation of these rules and regulations. If one of the trailers is to be detached:

(1) the SVC shall be driven to an appropriate location as determined by the enforcement agency;

(2) provisions by the applicant/owner of the SVC shall be made to have another truck-tractor sent to retrieve the detached trailer; and

(3) all related expenses and labor costs shall be the responsibility of the applicant/owner.

(d) The responsibility for strict compliance with the requirements shown in this section and the payment of fines shall be the responsibility of the applicant/owner of the SVC.

(e) Noncompliance with these rules and regulations can result in the suspension or the cancellation of the annual SVC permit.

(f) In accordance with the hearing procedures found in K.A.R. 36-1-30, an annual SVC permit may be suspended, cancelled or withheld for any violation of these regulations until such violation is rectified. Repeated or serious violations may result in suspension or cancellation of the applicant/owner's SVC certification. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-30. Cancellation of permit, hearing. (a) Whenever the secretary cancels an annual SVC permit, the applicant/owner shall be notified by certified mail, return receipt requested, at the address on the application, of the following:

(1) the right to a hearing;

(2) the right to be represented by counsel of the applicant's own choosing at the hearing;

(3) that a written request for a hearing must be filed with the secretary within 15 days of the date of mailing of the order of cancellation to the applicant/owner; and

(4) that the timely filing of the request shall suspend the operation of the order of cancellation pending a hearing.

(b) After receipt by KDOT of a request for a hearing, the applicant/owner of the SVC and any person who has made a complaint as to the operation of the SVC shall be given not less than 10 days written notice by the secretary of the time and place of hearing by registered or certified mail, return receipt requested, provided an address is available. If available, the letter will be addressed to the persons at their last known address, as shown by the files of the secretary.

(c) The owner of the SVC and other interested parties may appear at the hearing in person or by counsel and present their reasons for and against cancellation of the permit. Corporations may be represented by an officer or other agent or by an attorney duly authorized to practice law in Kansas.

(d) At the conclusion of the hearing, the order cancelling the annual SVC permit shall be affirmed, vacated or taken under advisement and a final ruling will be issued within 10 days.

(1) If the order is vacated, the permit shall be reinstated and the SVC allowed to operate.

(2) If the order is affirmed, the applicant/owner may not apply for a new annual SVC permit for a period of one year from the date of the final ruling.

(e) If a hearing is not requested, the applicant/owner may not apply for a new annual SVC permit for a period of one year from the date of the original order of cancellation. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-31. Equipment. (a) All equipment on

the SVC must conform with these regulations and those of the federal motor carrier safety regulations, 49 C.F.R. 390-399, as in effect on April 1, 1990 and adopted herein by reference. All equipment operated under the annual SVC permit is subject to periodic field inspection to ensure continued compliance with all equipment requirements.

(b) Power. All truck-tractors shall be powered to provide adequate acceleration ability and hill climbing ability under normal operating conditions, and to operate on level grades at speeds compatible with other traffic. The ability to maintain a minimum speed of 40 miles per hour under normal operating conditions on any grade and to be able to resume a speed of 40 miles per hour upon any grade on which the SVC is stopped is required.

(c) Tires. All tires shall be of the same size and construction (radial or non-radial). Tires must be properly inflated for the load being carried. Each axle must have two tires at each end of the axle, except for the steering axle.

(d) Fifth wheels. Every fifth wheel shall be:

(1) clean and lubricated with a light-duty grease;

(2) located in a position which provides adequate stability.

(e) King pins. Every king pin shall be solid-type and permanently fastened to the semitrailer. Screw-out or folding king pins are prohibited.

(f) Pick-up plates. Pick-up plates shall be of equal strength to the fifth wheel.

(g) Hitch connections. All hitch connections shall be no-slack air-actuated ram-type and isolated from the primary air transmission system.

(h) Pressure controlling devices. All pressure controlling devices shall be located outside the cab of the tractor and not accessible to the driver while in the cab.

(i) Drawbars. The drawbar length shall be the practical minimum consistent with clearances required between trailers for turning and backing maneuvers.

(j) Axles. All axles permanently attached to the trailer and/or semitrailer shall be designed for the width of the trailer. Drop or lift axles shall not be permitted. An SVC shall have a minimum of six and a maximum of nine axles.

(1) The total weight on any single axle shall not exceed 20,000 pounds. The total weight on any tandem axle shall not exceed 34,000 pounds. Only single and tandem groupings shall be permitted. The total gross weight of the SVC shall not exceed 110,000 pounds.

(2) The total weight on any group of two or more consecutive axles shall not exceed the bridge formula as set out in 23 U.S.C. 127 as in effect on December 22, 1987 and adopted herein by reference. Compliance with height and length restriction requirements is required.

(k) Brakes. Fast air transmission and release valves shall be provided on all semitrailer and trailer axles. Brakes shall be installed to apply consecutively beginning with the rear axle and proceeding to the front axle. The use of engine-retarder brakes shall be prohibited.

(l) Antispray devices. Antispray mud flaps shall be attached to the rear of each axle except the steering axle. Mud flaps shall have a surface designed to absorb and deflect excess moisture to the road surface.

(m) Trailers/semitrailers. All trailers/semitrailers shall conform as follows:

(1) The heaviest trailer or semitrailer shall be placed in front and the lightest at the rear;

(2) The length of a semitrailer or trailer in a SVC shall not exceed 28½ feet in length; and

(3) A semitrailer used with a converter dolly shall be considered to be a trailer.

(n) Convex mirrors. In addition to the standard mirrors, each SVC shall be equipped with convex mirrors (minimum 6 inches in diameter) on the left and right sides of the truck-tractor. Such mirrors shall be visible by the driver while operating the SVC. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-32. Operational procedure. (a) Following Distance. A minimum distance of 100 feet for every 10 miles per hour of speed shall be maintained between an SVC and other vehicles except when overtaking and passing.

(b) Lane of Travel. An SVC must remain in the right hand lane except when passing another vehicle traveling in the same direction or when emergency conditions exist.

(c) Disabled SVC. If an SVC is disabled for any reason other than an accident, it should be parked as far off the traveled way as possible. The KHP shall be notified as soon as possible, and the SVC shall be removed from the roadway. All expenses and labor costs shall be assumed by the applicant/owner.

(d) Cargo.

(1) All cargo shall be loaded to restrict any movement or shifting of the contents during routine delivery, sudden braking and other emergency maneuvers.

(2) Transportation of the following specified hazardous material types and quantities are prohibited:

(A) Any quantity of a material within the hazard classes specified in 49 C.F.R. 172.504, Table 1 as in effect on December 31, 1990 and as defined in 49 C.F.R. 173 as in effect on December 31, 1990 both of which are adopted herein by reference.

(B) Any material within the hazard classes specified in 49 C.F.R. 172.504, Table 2 as in effect December 31, 1990 and adopted herein by reference, that:

(i) exceeds 55 gallons per package;

(ii) is transported in bulk quantities in excess of a 3500 water gallon capacity.

(C) Is classified as a "Poison-Inhalation Hazard" as defined in 49 C.F.R. 173.3a(b)(2) as in effect on December 31, 1990 and adopted herein by reference.

(e) Stability. Any SVC shall be stable at all times during normal braking and normal operation. When travelling on a level, smooth, paved surface, any SVC shall follow the towing vehicle without shifting or swerving beyond the restraints of the lane of travel.

(f) Bridges. No SVC shall cross any structure if the SVC is over the posted limit. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-33. Insurance. Every SVC operated under an annual SVC permit shall be covered by insurance of not less than $500,000.00 general liability and $50,000.00 property damage. (Authorized by K.S.A. 68-404; K.S.A. 40-31-01 *et seq.*; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-34. Driver qualification standards. (a) Each SVC driver shall:

(1) possess a class A chauffeur's or commercial driver's license (CDL) with all appropriate endorsements.

(2) have a minimum of two years combined experience driving a truck-tractor-semitrailer combination;

(3) have at least one year of experience in driving multiple trailer combinations; and

(4) have completed:

(A) a supervised SVC driver training program; and

(B) a road test provided by the employer company.

(b) No more than one year may have elapsed between a driver's certification to these standards and the last time the driver was employed to operate truck-tractor-semitrailer combinations. (Authorized by K.S.A. 68-404; implementing K.S.A. 1989 Supp. 8-1911, as amended by L. 1990, Ch. 50, Sections 2, 4; effective March 4, 1991.)

36-1-35. Definitions. (a) "Carrier" means the person, firm, or company who has been authorized by the Kansas department of transportation to move oversize or overweight loads.

(b) "Convoy" means similar permitted loads traveling together on the same section of highway.

(c) "Critical location" means a section of highway on which, because of limited maneuverability, the driver must reduce the speed of the transporting vehicle to a speed significantly less than that of the prevailing traffic.

(d) "Custom-harvesting operation" means a person, firm, partnership, association, or corporation engaged in custom-harvesting operations, if a truck or truck tractor is used to perform the following:

(1) transport farm machinery, supplies or both, to or from a farm, for custom-harvesting operations on a farm;

(2) transport custom-harvested crops only from a harvested field to initial storage or to initial market locations; or

(3) transport agricultural products produced by that owner or commodities purchased by that owner for use on the farm owned or rented by the owner of that vehicle.

(e) "Daylight hours" means that span of time between one-half hour before sunrise and one-half hour after sunset.

(f) "Department" means the Kansas department of transportation.

(g) "Escort warning sign" means a yellow sign with black lettering and with a minimum dimension of five feet long and 12 inches high. The letters "oversize load" shall be visible on the face of the sign. The letters shall be eight inches in height, with a brush stroke of not less than 1⅛ inches.

(h) "Large structure" means any load that ex-

ceeds either sixteen feet, six inches in width or 18 feet in height.

(i) "Nondivisible" means any load or vehicle exceeding the applicable dimensions or weight limitations that, if separated into smaller loads or vehicles, would result in having any of the following effects:

(1) compromise the intended use of the vehicle;

(2) destroy the value of the load or vehicle; or

(3) require more than eight work hours to dismantle, using appropriate equipment.

The applicant for a nondivisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

(j) "Oversize or overweight load" or "load" means a vehicle or load exceeding the maximum sizes and weights defined in K.S.A. 8-1902, 8-1904 and 8-1909.

(k) "Oversize warning sign" means a yellow sign, with black letters and having minimum dimensions of seven feet long and 18 inches high. The letters "oversize load" shall be visible on the face of the sign and shall be a minimum of 10 inches high, with a brush stroke of not less than 1⅖ inches.

(l) "Permit" means a document issued by the secretary or secretary's designee and permitting the grantee to move a vehicle or load that is oversize, overweight, or both, over the highways that are under the jurisdiction of the secretary.

(m) "Secretary" means the Kansas secretary of transportation or the secretary's designee.

(n) "Special mobile equipment," for purposes of these regulations, in K.S.A. 8-1467 shall include special purpose machinery either self-propelled or towed as a trailer or semitrailer, or oil field rigging truck-tractor semitrailer combination, for which the useful revenue-producing service is performed at its destination.

(o) "Superload" means either of the following:

(1) a vehicle transporting a nondivisible load that is in excess of 150,000 pounds gross weight; or

(2) a vehicle transporting a nondivisible load in which any group or groups of axles exceed the limitations of these regulations. (Authorized by and implementing K.S.A. 1996 Supp. 8-1911; effective Aug. 15, 1997.)

36-1-36. Common requirements. Each applicant moving an oversize or overweight load that is nondivisible may be issued a permit by the secretary to travel on highways under the jurisdiction of the secretary. If the secretary determines that a person has been granted a permit and has not complied with any provision of these regulations, the permit may be canceled, or the issuance of future permits to the applicant may be denied by the secretary, in accordance with the Kansas administrative procedures act.

(a) Application information. The application for any permit shall be filed only by the individual or company that is doing the actual transporting or by an authorized permit service. Individuals and companies shown on the face of a permit shall be the only parties authorized to use that permit. Transferring permits to parties other than those to whom the permits were issued shall not be permitted. Permits shall be required in order for the individual or company to cross any portion of the state highway system.

(b) Bridge restrictions. Oversize loads shall not obstruct or impede traffic on any bridge for longer than five minutes.

(c) Carrier responsibility. Any applicant who accepts a permit issued by the secretary shall be deemed to have agreed to the following conditions:

(1) to be knowledgeable of the laws contained in K.S.A. 1996 Supp. 8-1911, as amended, and these regulations;

(2) to hold the secretary harmless, and to indemnify the secretary as immune from all suits, claims or damages arising from the movement of vehicles; and

(3) to pay the secretary for damages to state property caused by the permitted vehicle.

(d) Convoy information. Vehicles and loads traveling in convoy shall not have more than 1,000 feet between each transporting vehicle. A maximum of two permitted loads may travel in a convoy.

(e) Enforcement. Each holder of a permit shall make the permit or an authorized permit number readily available upon request to any law enforcement official or employee of the department.

(f) Escort information. When escorting loads or convoys more than 14 feet wide, the following conditions shall apply.

(1) On highways of fewer than four lanes, front and rear escorts shall be required. Except for superloads and large structures, the rear escort may be eliminated if a warning light is attached to the top of the towing vehicle and to the rear of each load and is mounted no less then two feet or more than eight feet above the surface of the road.

(2) On highways consisting of four lanes or more, a rear escort shall be required for superloads and large structures. All other types of loads shall not require escorting.

(3) When moving an oversize or overweight load, the driver of each escort vehicle and the person driving the permitted vehicle shall have the ability to communicate verbally with each other, using two-way equipment.

(4) Unless conditions dictate a different following distance, escorting vehicles shall travel at a distance not to exceed 300 feet in front or 300 feet to the rear of the load.

(g) Flagging. Movers of oversize loads shall attach warning flags to each side of the widest part of all overwidth loads and to the rear of all overlength loads.

(h) Implement dealers or manufacturer provisions. Implement dealers and manufacturers transporting farm machinery or farm machinery used in farming operations shall not be required to possess a permit if traveling within 100 miles of the implement dealer's or manufacturer's place of business. The mileage limitation shall apply only to Kansas miles. This exception shall not apply to interstate highways.

(i) Insurance information. The following insurance requirements apply to movers of oversize or overweight loads.

(1) Vehicles and loads traveling under the authority of any permit authorized by the secretary shall have in effect all motor vehicle liability insurance coverage as required by federal, state, and local law for the type of vehicle for which the permit is sought.

(2) All insurance requirements shall be in force as of the date when the permit is requested and shall be maintained for the duration of the permit.

(3) As a minimum prerequisite to obtaining any permit, the applicant shall obtain general liability insurance in the amount of $500,000 and auto liability insurance in the amount of $500,000 to cover bodily injury that occurs to any person and property damage liability that occurs to any structure or roadway on which the permitted vehicle and load travel. The insuring company shall be duly authorized to conduct business in Kansas.

(4) Except for vehicles registered by the Kansas corporation commission (KCC), each permittee shall keep proof of insurance in the permitted vehicle at all times and shall present this proof to any employee of the department or law enforcement personnel upon request. At a minimum, proof of insurance shall include the date the insurance was purchased, the amount of the insurance, the expiration date of the insurance, the name of the insuring company, and the signature of the person authorized to issue the insurance.

(j) Loading restrictions. These loading restrictions shall apply to all oversize or overweight loads.

(1) When any permit is granted, it shall be for the maximum dimension and weight of the component being transported. Identical components may be transported, provided that no additional dimension is exceeded.

(2) Multiple-item loads shall not exceed legal axle or gross weights as stated in K.S.A. 8-1908 and K.S.A. 8-1909.

(3) Except as provided in K.A.R. 36-1-28 through 36-1-34, articles transported beside each other shall not be permitted if more than one article makes the load overwidth or overlength.

(4) Every article or unit shall be loaded with the smallest dimension as its width.

(5) Vehicles shall be loaded in a manner that does not exceed the manufacturer's recommended weight-carrying capacity rating of any axle, trailer, or other equipment when transporting oversize or overweight loads under an authorized oversize or overweight permit.

(k) Manufactured homes. Movement of manufactured homes or modular sections of buildings shall be halted when the ground wind exceeds a sustained velocity of 30 miles per hour, as measured and reported by the nearest weather reporting facility.

(l) Size limitations. These general size limitations apply to all oversize or overweight loads.

(1) Overheight permits shall allow a height that is limited only by the constraints existing on the route to be traveled.

(2) Carriers of loads more than 17 feet high shall notify all appropriate utilities before moving the load.

(3) Carriers of overweight loads shall abide by all restrictions on posted bridges and shall not enter the structure if the weight of any group of axles or the gross vehicle weight exceeds the posted limit.

(4) Carriers transporting structural items including poles, pipe, bridge girders, or double derricks used in oil or gas drilling operations not to exceed 140 feet in length may be issued permits.

(m) Time restrictions. The following restrictions shall apply to all types of permits.

(1) Night movements shall be allowed for loads that are only overweight.

(2) Permits for overdimensional loads shall be restricted to daylight movement unless the secretary finds that an emergency exists, in which case a permit for nighttime movement may be issued for the special condition, as the secretary deems advisable. Special conditions shall be noted on the permit.

(3) Carriers transporting oversize or overweight loads may move every day of the year, including holidays.

(n) Transporting requirements. The following transporting requirements shall apply to oversize or overweight loads.

(1) Loads in excess of one-half of the width of the traveled portion of the highway shall be transported in a manner so that no part of the load extends across the centerline of the road, except when necessary to avoid a collision with objects located near the edge of the road.

(2) Farm tractors shall not be used to tow oversize or overweight loads, except in rare circumstances where the secretary or an appointed designee finds that an emergency exists, in which case, a permit for the emergency move may be issued to the customer. Special conditions shall be noted on the permit.

(3) All permitted loads shall be secured according to provisions established by the federal motor carrier safety regulations, part 393, "parts and accessories necessary for safe operation," subpart I, section 393.100 through 393.106, including all charts, figures and appendices regarding these sections, as in effect on August 1996, which are adopted by reference.

(4) Transporting vehicles operating under the authorization of a permit shall follow no closer than 300 hundred feet behind another vehicle, except when attempting to overtake and pass another vehicle.

(5) Except for incidental movements, all oversize or overweight construction machinery or equipment shall be transported on a truck-tractor trailer, truck-tractor semitrailer, or truck combination. Incidental driving of construction machinery on state highways shall be allowed, provided that the section of highway to be used is adjacent to or entirely within the project limits or the distance traveled is less than or equal to one mile and no bridge structures are being crossed.

(6) Derricks used in oil or gas drilling that, when erected, stand more than two connected joints of rotary tubular pipe shall be dismantled before being transported on state highways.

(o) Validity. All movements of oversize or overweight loads are subject to the requirements set forth on the permit. Once a permit has been approved, it shall not be altered.

(p) Visibility. Oversize or overweight loads shall not be transported when visibility is less than one-half mile, or when conditions of moderate to heavy rain, sleet, snow, fog, or smoke exist, or when highway surfaces are slippery due to ice, packed snow, or rain.

(q) Warning flags. Each warning flag shall be a piece of red or orange material that is not less than 12 inches square and is clean and free of lettering.

(r) Warning lights. Warning lights shall be installed on the top of each escort vehicle. Each warning light shall be in good operating condition, emit a rotating or flashing amber light, be mounted on top of the towing vehicle, and be readily visible at a distance of not less than 1,000 feet.

(s) Warning signs. A warning sign shall be used by movers of oversize or overweight loads in the following manner and circumstances.

(1) Each vehicle transporting oversize manufactured houses or modular sections of buildings shall have an oversize warning sign attached to the rear of the manufactured home or modular section being transported.

(2) Oversize and overweight loads shall have attached to the front of the transporting vehicle and to the rear of the load an oversize warning sign.

(3) Warning signs shall be readily visible from a distance of 500 feet from one-half hour before sunrise to one-half hour after sunset and shall be removed from the vehicle when the load being transported does not exceed legal dimensions.

(4) An escort warning sign or oversize warning sign shall be attached to the front or to the top of each vehicle preceding the load being transported, and a similar sign shall be attached to the top or to the rear of the vehicle trailing the load being transported. (Authorized by and implementing K.S.A. 1996 Supp. 8-1911; effective Aug. 15, 1997.)

36-1-37. Maximum dimensions and gross weights. (a) The following maximum dimensions and weights shall apply to annual permits.

(1) Dimensions:

Width	16 feet 6 inches
Length	126 feet
Height	15 feet

(2) Axle weights:

Single, non-drive axle	22,000 pounds
Single, drive axle	24,000 pounds
Tandem	45,000 pounds
Triple	60,000 pounds
Quad or more	65,000 pounds

(3) Weight:

Gross weight	120,000 pounds

(b) The following maximum dimensions and axle weights shall apply to standard permits.

(1) Dimensions:

Width	16 feet 6 inches
Length	126 feet
Height	18 feet

(2) Axle weights:

Single, non-drive axle	22,000 pounds
Single, drive axle	24,000 pounds
Tandem	45,000 pounds
Triple	60,000 pounds
Quad or more	65,000 pounds

(3) Weight:

Gross Weight	150,000 pounds

(4) Maximum weights for extra-wide axle groups both standard and annual permits:

Width (Feet)	Single N-drive	Single Drive	Tandem	Tridem	Quad
Less than (LT) 8'-07"	22,000	24,000	45,000	60,000	65,000
8'-07" LT 9'-00"	22,500	24,500	46,000	61,500	67,000
9'-00" LT 9'-06"	23,000	25,000	47,000	63,000	69,000
9'-06" LT 10'-00"	23,500	25,500	48,000	64,500	71,000
10'-00" and greater	24,000	26,000	49,000	66,000	73,000

(5) Maximum gross weight spacing table. The external spacing shall be determined by measuring the distance between the center of the steering axle and the center of the last axle of the combination. This chart shall apply to both standard and annual permits.

External Spacing (feet)	Maximum Gross Wt.
08	58,800
09	60,200
10	61,600
11	63,000
12	64,400
13	65,800
14	67,200
15	68,600
16	70,000
17	71,400
18	72,800
19	74,200
20	75,600
21	77,000
22	78,400
23	79,800
24	81,200
25	82,600
26	84,000
27	85,400
28	86,800
29	88,200
30	89,600
31	91,000
32	92,400
33	93,800
34	95,200
35	96,600
36	98,000
37	99,400
38	100,800
39	102,200
40	103,600
41	105,000
42	106,400
43	107,800
44	109,200
45	110,600
46	112,000
47	113,400
48	114,800
49	116,200
50	117,600
51	119,000
52	120,400
53	121,800
54	123,200
55	124,600
56	126,000
57	126,700
58	127,400
59	128,100
60	128,800
61	129,500
62	130,200
63	130,900

External Spacing (feet)	Maximum Gross Wt.
64	131,600
65	132,600
66	133,000
67	133,700
68	134,400
69	135,100
70	135,800
71	136,500
72	137,200
73	137,900
74	138,600
75	139,300
76	140,000
77	140,700
78	141,400
79	142,100
80	142,800
81	143,500
82	144,200
83	144,900
84	145,600
85	146,300
86	147,000
87	147,700
88	148,400
89	149,100
90	149,800
91 or more	150,000

(c) The following maximum dimensions and axle weights shall apply to the movement of special mobile equipment.

(1) Dimensions:

Width	16 feet 6 inches
Length	126 feet
Height	18 feet

(2) Axle weights:

Single, non-drive axle	22,000 pounds
Single, drive axle	24,000 pounds
Tandem	49,000 pounds
Triple	60,000 pounds
Quad or more	65,000 pounds

(3) Weight:

Gross weight	150,000 pounds

(4) Maximum weights for extra-wide axle groups on special mobile equipment:

Width (Feet)	Single N-drive	Single Drive	Tandem	Tridem	Quad
Less than (LT) 8'-07"	22,000	24,000	49,000	60,000	65,000
8'-07" LT 9'-00"	22,500	24,500	50,000	61,500	67,000
9'-00" LT 9'-06"	23,000	25,000	51,000	63,000	69,000
9'-06" LT 10'-00"	23,500	25,500	52,000	64,500	71,000
10'-00" and greater	24,000	26,000	53,000	66,000	73,000

(5) Maximum gross weight and external spacing table for special mobile equipment. The external spacing shall be determined by measuring the distance between the center of the steering axle and the center of the last axle of the combination.

External Spacing (feet)	Maximum Gross Wt.
08	67,200
09	68,800
10	70,400
11	72,000
12	73,600
13	75,200
14	76,800
15	78,400
16	80,000
17	81,600
18	83,200
19	84,800
20	86,400
21	88,000
22	89,600
23	91,200
24	92,800
25	94,400
26	96,000
27	97,600
28	99,200
29	100,800
30	102,400
31	104,000
32	105,000
33	107,200
34	108,800
35	110,400
36	112,000
37	113,600
38	115,200
39	116,800
40	118,400
41	120,000
42	121,600
43	123,200

External Spacing (feet)		Maximum Gross Wt.
44		124,800
45		126,400
46		128,000
47		129,600
48		131,200
49		132,800
50		134,400
51		136,000
52		137,600
53		139,200
54		140,800
55		142,400
56		144,000
57		144,800
58		145,600
59		146,400
60		147,200
61		148,000
62		148,800
63		149,600
64	or more	150,000

(Authorized by K.S.A. 1996 Supp. 8-1911; implementing K.S.A. 1996 Supp. 8-1904, 8-1908, 8-1909; effective Aug. 15, 1997.)

36-1-38. Types of permits. (a) Annual permits. This permit allows for continuous movement of oversize or overweight loads, special mobile equipment, manufactured houses, or modular sections of buildings during daylight hours.

(1) The annual permit shall be assigned to a specific power unit.

(2) This permit shall be valid for a period of one year, beginning and ending as specified on the permit.

(3) The annual permit shall not be transferable to any other company or vehicle.

(4) Movers operating with an annual permit may deviate from the routes approved by the secretary only at the origin and destination of their trip. Such a deviation shall be limited to using the safest, shortest, and most direct roadways.

(b) Standard permits. This permit allows for single-trip movements in those circumstances where another permit is not appropriate.

(1) Standard permits may be issued for the movement of oversize or overweight vehicles and loads on a multiple-trip or single-trip basis if implementation of another type of permit is not appropriate.

(2) Each standard permit shall be good for a period of seven days.

(3) Standard permits shall be issued only from point of origin to final destination on routes designated by the secretary.

(4) Movers of oversize or overweight loads may make multiple trips, provided that the mover uses the same route and hauls similar loads, trips can be made within the original period of validity, and the information on the standard permit does not change.

(c) Superload permits. These permits shall allow movement of overweight loads that exceed 150,000 pounds of gross weight.

(1) Movers of superloads shall pay for all damages caused by the movement of the superload.

(2) Movers of superloads shall have a valid superload permit that includes a bridge analysis, which must be completed by the department before traveling on any highway within Kansas.

(3) Superload permits shall be issued only for single-trip movements.

(4) Before escorting superloads within Kansas, escorting companies shall obtain certification in a manner approved by the secretary.

(d) Large structure permits. This permit shall allow for movement of oversize loads that exceed the size limitations of the standard permit.

(1) Large structure permits shall be valid for a period of 30 calendar days.

(2) When alternate routes are available, movers of large structures shall reduce the use of state highways to a minimum. Movers of large structures shall contact all appropriate departmental personnel before moving.

(3) Large structure permits shall not be granted to transport loads on interstate highways, except in extreme circumstances. In such cases, prior approval shall be obtained from the secretary, and local enforcement authorities shall accompany the movement to provide traffic control. The transporting vehicle shall be the only vehicle traveling on the applicable section of the interstate.

(4) Movers of large structures shall not park any transporting vehicle on any part of the traveled portion of the highway. Vehicles having to be parked on the right-of-way shall have at least 30 feet of clearance from the traveled portion of the highway.

(5) Movers of large structures shall notify all appropriate utilities and railroads before moving any large structure.

(6) Movers of large structures shall contact all appropriate district engineers before any trees are cut or trimmed.

(7) Movers of large structures shall also make arrangements with the district engineer before removing or relocating signs, hazard markers, or other property of the department.

(8) The final decision with regard to the movement of the large structure, the time of day, date, and the routes to be used shall be approved by a departmental employee of the district in whose area the load travels or by an appointed representative.

(9) An escort vehicle shall be stationed at side road intersections during the movement of large structures in order to hold all vehicles at those intersections until the structure has been moved through the section of road being blocked.

(10) Drivers of escorting vehicles shall not allow large structures to cross a bridge or critical location until all traffic has been stopped at both sides of bridges or before and after a critical location. (Authorized by and implementing K.S.A. 1996 Supp. 8-1911; effective Aug. 15, 1997.)

Article 2.—VEHICLES CARRYING EMERGENCY EQUIPMENT

36-2-1 and 36-2-2. (Authorized by K.S.A. 8-501; effective Jan. 1, 1966; revoked Jan. 1, 1972.)

36-2-3. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-4. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-5. (Authorized by and implementing K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010, 75-5004; effective Jan. 1, 1972; amended, E-74-66, Feb. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended May 1, 1981; revoked May 1, 1983.)

36-2-6. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-7. (Authorized by K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010, 75-5004; implementing K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010; effective Jan. 1, 1972; amended, E-74-66, Feb. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended May 1, 1981; revoked May 1, 1983.)

36-2-8. (Authorized by K.S.A. 8-1404, 8-1738(d), 8-2010, 74-2004, 77-415; effective Jan. 1, 1972; amended May 1, 1976; revoked Sept. 15, 2000.)

36-2-9. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-10. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1729, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-11. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; revoked Sept. 15, 2000.)

36-2-12. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720(a), 8-1729(d), 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-13. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983; revoked Sept. 15, 2000.)

36-2-14. Use of sirens. All sirens used on vehicles traveling the public highways in Kansas shall be tested and approved by the American Association of Motor Vehicle Administration (AAMVA). (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1702, 8-1738; effec-

tive May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

Article 3.—HIGHWAY ENTRANCE PERMITS

36-3-1 to 36-3-5. (Authorized by K.S.A. 68-413b; effective Jan. 1, 1966; revoked May 1, 1983.)

36-3-6. Driveway permits. Individuals desiring to construct or alter a driveway onto the state highway system shall be required to obtain a permit from the Kansas department of transportation. Under no circumstances shall an individual be permitted to perform any work on the state highway right-of-way until an approved copy of a highway permit agreement is received. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 1981 Supp. 68-406(e); effective May 1, 1983.)

Article 4.—SADDLEMOUNTS AND TRANSPORTATION OF EMPTY TRUCKS

36-4-1 to 36-4-7. (Authorized by K.S.A. 8-5,118; effective Jan. 1, 1966; revoked May 1, 1981.)

36-4-8. Saddlemounts, transportation of empty trucks. Rules and safety regulations promulgated by the U.S. department of transportation found at 49 C.F.R. part 393.71 and in effect on October 11, 1972, are hereby adopted by reference as the safety rules and regulations by the secretary. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1907; effective May 1, 1981; amended May 1, 1983.)

Article 5.—APPROVAL OF BRAKE FLUID

36-5-1 to 36-5-3. (Authorized by K.S.A. 8-1737; effective Jan. 1, 1966; amended May 1, 1976; revoked, L. 1979, ch. 261, May 1, 1979.)

36-5-4. (Authorized by K.S.A. 8-1737, 74-2004; effective Jan. 1, 1966; amended May 1, 1976; revoked, L. 1979, ch. 261, May 1, 1979.)

36-5-5. (Authorized by K.S.A. 8-1737; effective Jan. 1, 1966; amended May 1, 1976; revoked, L. 1979, ch. 261, May 1, 1979.)

Article 6.—MINIMUM STANDARDS; ANTI-FREEZE COMPOUNDS

36-6-1 and 36-6-2. (Authorized by K.S.A. 8-901, 8-903, 8-906; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; revoked, L. 1979, ch. 260, May 1, 1979.)

36-6-3 and 36-6-4. (Authorized by K.S.A. 8-901, 8-903, 8-906; effective Jan. 1, 1973; revoked, L. 1979, ch. 260, May 1, 1979.)

Article 7.—STUD TIRES

36-7-1. Definitions. "Stud" as used herein is a pin-type device prepared for installation in the tread design of an automobile tire. It consists of a tungsten carbide core bonded to an outer casing or shell of plastic, aluminum or steel.

"Stud tire" is an automobile tire fitted with studs in the tread design in openings molded for that purpose by the tire manufacturer.

"Body of a tire" is the fabric or cord material to which the rubber tread material is bonded.

"Manufacturer" shall be the person or corporation who makes or fabricates the body of a tire.

(A) The manufacturer or retreader shall prepare precise specifications for new stud tires and newly retreaded tires covering the number, pattern of installation, type of stud to be used and number of studs to be used in each type of tire for which approval is applied.

(B) Approval may be granted for installation of studs in standard tires and in newly retread tires for which precise specifications are submitted.

(C) When installed, there shall be a minimum of 2/32 inch of rubber between the base of the stud and the cord body of the tire.

(D) When installed, the tungsten tip of the stud shall project not less than .040 inch nor more than .090 inch above the tread surface of the tire. The measurements that are made to see that this is complied with will be made on tires before they have been in use. However, if there is any question as to their requirements, they will be again measured, after the tires have been driven at speeds not to exceed 50 miles per hour for a distance of at least 10 miles.

(E) The number of studs per tire shall be controlled by the size of the passenger car tire and shall be within a range of a minimum of 60 and a maximum of 150 for the small, standard size and/or larger passenger car tire.

(F) The rubber surrounding the stud itself

where the stud insertion is made must be a minimum of .500 inch in diameter and must be of solid rubber with the stud in the center of this solid rubber area.

(G) Studs must be imbedded in holes premolded in tires.

(H) Studs when inserted, shall be firmly and squarely seated in these holes and in the tire itself.

(I) The studs may not exceed .400 inch diameter inclusive of the stud casing.

(J) Studs may be used in tires on single tire passenger vehicles and other single passenger vehicles with rated capacities up to and including ¾ ton.

(K) No stud tire shall be used on a public highway earlier than November 1st or later than April 15 of any winter season.

(L) The tire or rubber manufacturer shall be responsible for the proper installation of studs in all tires where the studs are inserted by the factory and those tires where studs are inserted by the dealers who operate factory-owned stores. Those companies or tire dealers doing retread operations shall be responsible for the proper installation of studs in any retread tires that they manufacture and shall further be responsible for any insertion of studs that these same companies or dealers insert in new tires in which they apply the studs.

A manufacturer of a stud tire or the retreader seeking such approval of his tire for legal sale and/or use in Kansas shall apply by letter to the traffic and safety department of the state highway commission, state office building, Topeka, Kansas, stating that his product meets all the requirements for stud tires as herein contained, and as required by the state highway commission of Kansas. The commission reserves the right to require additional proof of tire or stud conformity with such requirements.

A provisional certificate of approval may be issued for each type tire by the state highway commission providing that:

(1) The manufacturer and/or retreader applies, submitting all required information for each type tire, and therefore certifying that his product conforms with all of the Kansas requirements.

(2) The commission reserves the right to require the submission of one or more pairs of each size tire for which approval is requested as the commission may designate.

(3) The commission reserves the right to deny a certificate of approval for any type of stud tire that does not meet its standards and recommendations. (Authorized by K.S.A. 1965 Supp. 8-5,106; effective Jan. 1, 1966.)

36-7-2. Use of studded traction equipment permitted; definitions; limitations on use. (a) Definitions. (1) "Vehicles" shall have the meaning set forth at K.S.A. 8-1485.

(2) "Highway" shall have the meaning set forth at K.S.A. 8-1424.

(3) "Studded traction equipment" means any device designed to be attached or placed on an automobile tire or small truck tire for the purpose of increasing traction in snow, ice or other conditions tending to cause a vehicle to skid. For purposes of this regulation "truck" shall mean a vehicle registered with the Kansas department of revenue of a gross vehicle weight of 12,000 lbs. or less. Depending on the design and application, the device may cover all of the tire tread or a portion of the tire tread at frequent intervals from the perimeter of the tire.

(b) Stud-type protrusions consisting of tungsten carbide or other material of similar substances that will not sliver or shatter upon striking concrete or other hard material may extend outward from the periphery of the studded traction device. When installed the tungsten tip of the stud shall project not less than .040 inch nor more than .090 inch above the surface. The device to which the studs or protrusions are attached shall extend across the tread of the tire at intervals of not less than twelve inches when measured along the circumference of the tire. Studs shall be securely attached to the device in such manner that they will not become dislodged from the device by striking some object or from centrifugal force.

(c) The number of studs per device shall be controlled by the size of tire and shall be a minimum of 32 studs.

(d) Studded traction equipment shall be permissible for use on highways within this state on and after November 1 of each year to and including April 1 of the succeeding year.

(e) The manufacturer of studded traction equipment shall be responsible for the proper installation of studs when inserted at the factory and when inserted by dealers who operate factory-owned stores.

(f) A manufacturer of studded traction equipment seeking prior approval of such equipment for legal sale or use in Kansas shall make written application to the secretary of the Kansas department of transportation. The application shall state

that the device meets all of the requirements for studded traction equipment as specified in this regulation. The secretary reserves the right to require additional proof of equipment or stud conformity. The additional requirements may include submission to the secretary of one or more pairs of studded traction equipment for which approval is requested.

(g) The secretary of the Kansas department of transportation reserves the right to deny a certificate of approval for studded traction equipment that does not meet the standards and specifications of this regulation. (Authorized by and implementing K.S.A. 1985 Supp. 8-1742; as amended by L. 1986, Ch. 42; effective May 1, 1987.)

Article 8.—APPROVAL OF LIGHTING DEVICES

36-8-1. (Authorized by K.S.A. 8-599; effective Jan. 1, 1966; revoked, L. 1979, ch. 261, May 1, 1979.)

Article 9.—APPROVAL OF SAFETY GLASS

36-9-1. (Authorized by K.S.A. 8-5,107; effective Jan. 1, 1966; revoked, L. 1979, ch. 261, May 1, 1979.)

Article 10.—TRAFFIC CONTROL DEVICES

36-10-1. (Authorized by K.S.A. 8-510, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1966; revoked Jan. 1, 1973.)

Article 11.—PUBLIC AND PRIVATE UTILITIES ON HIGHWAY RIGHT-OF-WAY

36-11-1 to 36-11-5. (Authorized by K.S.A. 68-404; effective Jan. 1, 1966; revoked May 1, 1981.)

36-11-6. Utility accommodation policy. Public and private utilities, including pipelines, shall be constructed, reconstructed and maintained (including chemical brush control and tree trimming) under, on or over any state highway right-of-way, including that acquired for controlled access facilities, only with the prior approval of the secretary of transportation. A highway permit agreement shall be obtained from the Kansas department of transportation. In the event of an emergency endangering the life, safety or welfare of the public, no prior approval or permit agreement shall be required. (Authorized by and implementing K.S.A. 1983 Supp. 68-404; modified, L. 1981, ch. 420, May 1, 1981; amended May 1, 1985.)

Article 12.—CONTROLLED ACCESS HIGHWAYS

36-12-1. (Authorized by K.S.A. 1982 Supp. 68-404; implementing 8-1572, 68-1902; effective Jan. 1, 1966; amended May 1, 1983; revoked May 1, 1984.)

36-12-2. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-1902; effective Jan. 1, 1966; amended May 1, 1983; revoked May 1, 1984.)

36-12-3. (Authorized by K.S.A. 68-413(b); effective Jan. 1, 1966; revoked May 1, 1984.)

Article 13.—SCHOOL BUS TRANSPORTATION

36-13-1. (Authorized by K.S.A. 8-579, K.S.A. 1971 Supp. 72-8404; effective Jan. 1, 1966; amended Jan. 1, 1972; revoked, E-78-22, Aug. 10, 1977; revoked May 1, 1978.)

36-13-2 and 36-13-3. (Authorized by K.S.A. 8-579, 72-628; effective Jan. 1, 1966; amended Jan. 1, 1972; revoked, E-78-22, Aug. 10, 1977; revoked May 1, 1978.)

36-13-4 and 36-13-5. (Authorized by K.S.A. 8-579; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; revoked, E-78-22, Aug. 10, 1977; revoked May 1, 1978.)

36-13-6. (Authorized by K.S.A. 8-579, 8-5,120; effective Jan. 1, 1974; revoked, E-78-22, Aug. 10, 1977; revoked May 1, 1978.)

36-13-7. (Authorized by K.S.A. 8-579, 8-5,120; effective Jan. 1, 1966; amended Jan. 1, 1972; revoked Jan. 1, 1974.)

36-13-8. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended, E-70-21, April 17, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended Jan. 1, 1974; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-9. (Authorized by K.S.A. 8-579; effective Jan. 1, 1966; amended, E-70-21, April 17, 1970; amended Jan. 1, 1971; revoked Jan. 1, 1972.)

36-13-9a. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1974; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-10. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-11. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended Jan. 1, 1972; amended, E-74-16, March 8, 1974; amended, E-74-66, Dec. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-12. (Authorized by K.S.A. 8-579; effective Jan. 1, 1966; revoked Jan. 1, 1972.)

36-13-13. (Authorized by K.S.A. 8-579; effective, E-70-21, April 17, 1970; effective Jan. 1, 1971; revoked Jan. 1, 1972.)

36-13-14 and 36-13-15. (Authorized by K.S.A. 8-579; effective Jan. 1, 1972; revoked May 1, 1978.)

36-13-16. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1979; revoked May 1, 1983.)

36-13-17 and 36-13-18. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked May 1, 1983.)

36-13-19. Reserved.

36-13-20. This regulation shall be revoked on June 30, 2000. (Authorized by K.S.A. 1977 Supp. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked June 30, 2000.)

36-13-21. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked May 1, 1983.)

36-13-22 to 36-13-29. Reserved.

36-13-30. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective May 1, 1983; amended May 1, 1984; amended June 15, 1992; revoked June 30, 2000.)

36-13-31. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983; amended June 15, 1992; revoked June 30, 2000.)

36-13-32. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended June 15, 1992; revoked June 30, 2000.)

36-13-33. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983; amended June 15, 1992; revoked June 30, 2000.)

36-13-34. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended June 15, 1992; revoked June 30, 2000.)

36-13-35. This regulation shall be revoked on June 30, 2000. (Authorized by K.S.A. 1977 Supp. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked June 30, 2000.)

36-13-36. (Authorized by K.S.A. 1978 Supp. 8-2009; effective May 1, 1979; revoked June 15, 1992.)

36-13-37. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective May 1, 1979; amended June 15, 1992; revoked June 30, 2000.)

36-13-38. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective June 15, 1992; revoked June 30, 2000.)

36-13-39. This regulation shall be revoked on June 30, 2000. (Authorized by and implementing K.S.A. 8-2009; effective June 15, 1992; revoked June 30, 2000.)

Article 14.—INTERSTATE HIGHWAY SYSTEM; USE

36-14-1. Prohibition on the use of the interstate highway system by unauthorized vehicles, animals and pedestrians. The use of the federal aid interstate highway system facilities in Kansas by pedestrians, bicycles, horse-drawn

vehicles, animals led, driven or ridden, other nonmotorized traffic or motor driven cycles is prohibited. (Authorized by K.S.A. 8-5,123a, 68-1902; effective Jan. 1, 1966.)

Article 15.—MOTORCYCLISTS

36-15-1 to 36-15-12. (Authorized by K.S.A. 8-574b; effective, E-67-17, Aug. 25, 1967; effective, E-68-5, Jan. 15, 1968; effective Jan. 1, 1969; revoked, L. 1979, ch. 262, May 1, 1979.)

36-15-13 to 36-15-22. (Authorized by K.S.A. 74-2004, 74-2011, K.S.A. 1972 Supp. 8-577k; effective, E-72-21, Aug. 1, 1972; effective Jan. 1, 1973; revoked May 1, 1981.)

36-15-23. (Authorized by and implementing K.S.A. 8-1598; effective May 1, 1981; amended May 1, 1983; amended Aug. 13, 1990; revoked Oct. 13, 2000.)

Article 16.—HIGHWAY RELOCATION ASSISTANCE

36-16-1. Acquisition of real property for state highway purposes; relocation assistance. (a) 49 C.F.R. Part 24, as of March 2, 1989, and all amendments thereto, is adopted by reference.

(b) The provisions of 49 C.F.R. Part 24, as of March 2, 1989, and all amendments thereto, shall be applicable to all acquisitions of real property by the department of transportation for the state highway system including those acquisitions in which federal funds are not available for or used in payment of acquisitions. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, 68-404; implementing K.S.A. 58-3501 through 58-3506; effective, E-68-16, May 13, 1968; effective, E-69-8, May 28, 1969; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-71-31, Aug. 1, 1971; amended Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended, E-76-33, July 1, 1975; amended May 1, 1976; amended May 1, 1983; amended May 1, 1986; amended Sept. 18, 1989.)

36-16-2. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-71-31, Aug. 1, 1971; amended Jan. 1, 1972; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

36-16-3. (Authorized by K.S.A. 1970 Supp. 74-2020; effective, E-70-14, Jan. 19, 1970; effective Jan 1, 1971; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

36-16-4. Notice of appeal. Any person aggrieved by a determination as to eligibility, under K.S.A. 58-3501 through 58-3506 or these regulations, for a relocation assistance payment, or the amount of such payment, shall file a written notice of appeal with the secretary of transportation, or the secretary's designee. The written notice shall be filed within 60 days after having been advised of the payment, or of the determination as to eligibility for a payment, of which the aggrieved person complains. Any notice in writing received by the secretary or the secretary's designee, in a form as to indicate request for review or reconsideration of a determination for relocation assistance payments or eligibility, shall be considered a valid notice of appeal. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended, E-76-33, July 1, 1975; amended May 1, 1976; amended May 1, 1983.)

36-16-5. Designation of hearing examiner and notice of time and place of hearing. (a) Upon receipt of a notice of appeal, the relocation assistance officer shall notify the secretary or the secretary's designee, who may appoint a hearing examiner to hear the appeal. The hearing examiner shall designate a time for the appeal which is as early as is practicable and a place for the appeal which is reasonably convenient to the appellant and the examiner.

(b) The secretary of transportation or the secretary's designee may designate an attorney from the department of transportation's legal staff to attend the hearing, cross-examine witnesses testifying on behalf of the aggrieved person, and present testimony of witnesses and documentary evidence related to or concerning the issues involved in the hearing. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-6. Notice of hearing and continuances. The hearing examiner shall give notice of

the time and place of hearing to the appellant or his attorney, by mail at least ten (10) days prior to the date of said hearing. The hearing examiner may, upon request and for good cause shown, continue or adjourn said hearing to a subsequent date or may move the hearing to a different place. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973.)

36-16-7. Hearings. On the date, and at the place and time stated in the notice of hearing, the person conducting the hearing shall call the hearing by reading the caption into the record. A record shall be made of all proceedings either by a recording device or by a qualified reporter. The hearing shall be conducted in such a manner as to give the appellant an opportunity to be heard upon relevant issues. The hearing examiner shall prepare a report containing a summary of the evidence and of the findings and recommendations and shall also prepare a proposed order containing the findings of fact and conclusions of law. The summary and proposed order shall be submitted to the secretary or the secretary's designee within 60 days of the conclusion of the hearing, for the approval of the secretary or the secretary's designee. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-8. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-502b, 74-2004; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

36-16-9 to 36-16-15. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

36-16-16. Housing replacement by the department of transportation as a last resort. (a) If the department cannot proceed to actual construction on a project because comparable replacement sale or rental housing is not available, and the department, or its authorized representative, determines that such housing cannot otherwise be made available, it may take action that is necessary or appropriate to provide housing. Funds authorized for the purpose of housing replacement shall be used.

(b) Unless the department or its authorized representative is satisfied that replacement housing in accordance with the provisions of K.A.R. 36-16-1 is available, no person shall be required to move from his or her dwelling because of any state highway project or any county, township or city highway, road or street project for which federal funds are made available under an agreement between an agency of the federal government and the department acting for and on behalf of any of the described governmental entities. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-17. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-4026, 74-2004; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

36-16-18. Department of transportation acting as agent for federal program. Whenever real property is acquired by the department at the request of a federal agency for a federal program or project, that acquisition shall be deemed an acquisition by the federal agency having authority over that program or project, and not an acquisition by the state of Kansas or the department. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-19. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 72-2004; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

36-16-20. Relocation assistance in programs receiving federal financial assistance. The department, or its authorized representative may enter into contracts with any individual, firm, association, or corporation for services in connection with relocation assistance programs for displaced persons under K.A.R. 36-16-1. Functions

under K.A.R. 36-16-1 may also be carried out through any federal, state or local governmental agency or instrumentality having an established organization for conducting relocation assistance programs. The department shall, whenever practicable in carrying out these relocation assistance activities use the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-21. Applicable to counties, townships, and cities. (a) The provisions of K.A.R. 36-16-1 et seq. apply to all acquisitions of real property, and displacements of persons for:

(1) any county, township or city highway, road or street, for which federal assistance is made available to that government entity because of any contract between the department on behalf of that governmental entity with a federal agency, under the provisions of K.S.A. 1981 Supp. 68-402b; or

(2) for which department funds are made available though no federal funds are available or used in the acquisition of that real property. The amount of relocation assistance and other payments made to that displaced person shall not exceed the amount that would have been paid that displaced person had federal assistance been made available or used for the acquisition of that real property for that county, township or city highway, road or street project. The department may deduct the amount of any relocation assistance payments owed by that governmental entity described in (1) above from any monies due that entity from the state or the department for highway road or street purposes.

(b) The department shall administer K.S.A. 68-402b and K.A.R. 36-16-1 as to relocation assistance, and real property acquisition by a governmental entity for highway, road or street purposes, under the provisions of K.A.R. 36-16-21(a), except as otherwise agreed between the department and the governmental entity involved. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-22. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective Jan. 1, 1972; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

36-16-23. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

36-16-24. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective Jan. 1, 1972; revoked, E-72-15, June 1, 1972; revoked Jan. 1, 1973.)

Article 17.—BILLBOARDS AND OUTDOOR ADVERTISING

36-17-1. Performance bond to accompany license application or renewal; schedule; inventory; penalty. (a) Each application for or renewal of a license to own or maintain outdoor advertising required by K.S.A. 68-2236 shall be accompanied by a performance bond in favor of the secretary of transportation conditioned that the applicant shall well and truly abide by the laws of Kansas; including the provisions of the highway advertising control act of 1972, all amendments thereof and all regulations made pursuant thereto. The amount of the performance bond shall be based on the number of signs owned or maintained in the state in accordance with the following schedule:

(1) One to ten signs	$ 500.00
(2) Eleven to fifty signs	$2,000.00
(3) Fifty-one or more signs	$2,500.00

License renewals need not be accompanied by a new performance bond if a continuing bond has previously been submitted.

(b) Each license application or renewal shall include an inventory of the applicants signs on forms provided by the secretary.

(c) Failure of a sign owner to obtain a license or comply with the other provisions of the highway advertising control act of 1972 or the regulations made pursuant thereto shall subject the owner's signs to removal without compensation unless brought into compliance. (Authorized by K.S.A. 1977 Supp. 68-2236; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973; amended May 1, 1978.)

36-17-2. (Authorized by K.S.A. 68-402, 74-2011, K.S.A. 1972 Supp. 68-402b, 68-2231 to 68-2243, 74-2004; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973; revoked May 1, 1978.)

36-17-3. Licenses for outdoor advertising; permit number on sign. From and after January 1, 1973, all signs erected or maintained along federal aid primary or interstate highways except signs described in section 3, paragraphs (b) and (c), of said highway advertising control act of 1972 shall have attached thereto in the lower left hand corner the permit number of the permit issued for such sign. Such permit number shall be in block letters no smaller than three inches. Said numbers may be painted on or attached in any manner that is durable. (Authorized by K.S.A. 68-402, 74-2011, K.S.A. 1972 Supp. 68-402b, 68-2231 to 68-2243, 74-2004; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973.)

36-17-4. (Authorized by K.S.A. 1975 Supp. 68-2233; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973; revoked May 1, 1976.)

36-17-5. Licenses for outdoor advertising; disposition of fees. The city clerk, city treasurer, or other city official having custody of outdoor advertising permit fees collected by a city shall forward such fees to the department of transportation not later than the 10th day of the calendar month immediately following the calendar month in which the fees were received by the city. (Authorized by K.S.A. 1983 Supp. 68-404, K.S.A 68-2236; implementing K.S.A. 68-2236; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973; amended May 1, 1985.)

36-17-6. Repairs to signs; new signs. From and after March 31, 1972, repairs to any sign in an adjacent area which receives repairs, the cost of which is in excess of sixty (60) percent of the replacement cost of such sign, in any given calendar year, shall constitute a new sign. (Authorized by K.S.A. 68-402, 74-2011, K.S.A. 1972 Supp. 68-402b, 68-2231 to 68-2243, 74-2004; effective, E-72-16, July 1, 1972; effective Jan. 1, 1973.)

36-17-7. Signs beyond 660 feet from right-of-way prohibited; exceptions. The erection of outdoor advertising signs, displays or devices, outside of urban areas, beyond 660 feet from the nearest edge of the right-of-way, visible from the main traveled way of the system and erected with the purpose of their messages being read from the main traveled way, is prohibited, except the following: (1) directional and other official signs which meet the selection criteria and conform to the standards established by the state highway commission.

(2) signs, displays and devices advertising the sale or lease of the property upon which they are located.

(3) signs, displays and devices advertising activities conducted on the property on which they are located. (Authorized by K.S.A. 68-401, K.S.A. 1975 Supp. 68-402, 68-404(j), 68-404(k), 68-2233, 68-2241; effective, E-76-30, June 19, 1975; effective May 1, 1976.)

36-17-8. Selection methods and criteria; directional and official signs and notices. (A) Application: The following standards apply to directional and official signs and notices which are erected and maintained along the interstate and federal-aid primary system with the intent of their message being visible from the main traveled way of the system. These standards do not apply to directional and official signs erected on the highway right-of-way.

(B) Definitions. (1) "Directional and official signs and notices," includes only official signs and notices, public utility signs, service club and religious notices, public service signs and directional signs.

(2) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state or local law for carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

(3) "Public utility signs" means warning signs, information signs, notices or markers which are customarily erected and maintained by publicly or privately-owned public utilities, as essential to their operations.

(4) "Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs of charitable associations, or religious services, which signs do not exceed eight (8) square feet in area.

(5) "Public service signs" means signs located

on school bus stop shelters, which signs: (a) Identify the donor, sponsor, or contributor of said shelters;

(b) Contain safety slogans or messages which shall occupy not less than sixty (60) percent of the area of the signs;

(c) Contain no other message;

(d) Are located on school bus shelters which are authorized or approved by city, county, or state law, regulation, or ordinance and at places approved by the city, county, or state agency controlling the highway involved; and

(e) May not exceed thirty-two (32) square feet in area. Not more than one sign on each shelter shall face in any one direction.

(6) "Directional signs" means signs containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately-owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(C) Standards for directional signs: (1) *General.* The following signs are prohibited: (a) Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.

(b) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(c) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(d) Obsolete signs.

(e) Signs which are structurally unsafe or in disrepair.

(f) Signs which move or have any animated or moving parts.

(g) Signs located in rest areas, parkland, or scenic areas.

(2) *Size.* (a) No sign's display area shall exceed the following limits: (i) Maximum area—150 square feet.

(ii) Maximum height—20 feet.

(iii) Maximum length—20 feet.

(b) All dimensions include border and trim, but exclude supports.

(3) *Lighting.* Signs may be illuminated, subject to the following: (a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(b) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(c) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(4) *Spacing.* (a) Each location of a directional sign must be approved by the secretary of transportation.

(b) No directional sign may be located within two thousand (2,000) feet of an interchange, or intersection at grade along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(c) No directional sign may be located within two thousand (2,000) feet of a rest area, parkland, or scenic area.

(d)(i) No two (2) directional signs facing the same direction of travel shall be spaced less than one (1) mile apart; (ii) Not more than three (3) directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity; (iii) Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity; and (iv) Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity.

(e) Message content. The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

(D) Selection methods and criteria. The following apply to directional signs: (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific and religious sites and outdoor recreational areas.

(2) To be eligible, privately-owned attractions

or activities must be nationally or regionally known and of outstanding interest to the traveling public.

(3) Each directional sign shall be approved by the right-of-way department of the Kansas department of transportation.

(4) The right-of-way department of the Kansas department of transportation shall make final determinations of eligibility for directional signs and official signs. In making determinations for directional signs the department shall, when it is deemed necessary, avail itself of the experience and knowledge of the following state agencies, hereby recognized as being the state authority on the various categories contained in (D) above: state historical society, state park and resources authority, and the state forestry, fish and game commission. (Authorized by K.S.A. 1977 Supp. 68-2233a; effective, E-76-30, June 19, 1975; effective May 1, 1976; amended May 1, 1978.)

36-17-9. Termination of legal non-conforming status; conditions; effect. The legal non-conforming status of a sign may be deemed terminated upon the occurrence of one or more of the following conditions:

(a) Increase in sign size.

(b) Change in sign location.

(c) Addition or modification of lighting.

(d) Failure of an owner to adequately maintain a sign or effect repairs on a damaged sign for a period in excess of one year.

Upon a determination that the legal non-conforming status of a sign has ceased, the sign shall be subject to removal by the secretary of transportation without compensation. (Authorized by K.S.A. 1977 Supp. 68-402, 68-404, 68-2231 *et seq.*; modified, L. 1978, ch. 472, May 1, 1978.)

Article 18.—LIGHTS ON HIGHWAY CONSTRUCTION AND MAINTENANCE VEHICLES

36-18-1 to 36-18-3. (Authorized by K.S.A. 8-1731; effective, E-76-30, June 19, 1975; effective May 1, 1976; revoked May 1, 1981.)

36-18-4. Lights on highway construction and maintenance vehicles. All highway construction and maintenance vehicles shall be equipped with amber lights which meet or exceed the standards approved and practices recommended by the society of automotive engineers standard J99, as of April, 1980, which are hereby adopted by reference. (Authorized by and implementing K.S.A. 8-1731; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984.)

Article 19.—STANDARD FOR SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM

36-19-1 to 36-19-8. (Authorized by K.S.A. 74-2004, K.S.A. 1973 Supp. 8-586b; effective Jan. 1, 1974; revoked May 1, 1981.)

36-19-9. Standard for slow-moving vehicle identification emblem. Rules, regulations, and specifications promulgated by the American society of agricultural engineers standard S276.3, as of December 31, 1982, are hereby adopted by reference as the standards and specifications approved by the secretary. (Authorized by and implementing K.S.A. 8-1717; effective May 1, 1981; amended May 1, 1983.)

Article 20.—REGISTRATION OF MOTOR VEHICLES

Editor's Note:

At the request of the secretary of revenue certain regulations formerly assigned to this article were transferred to Agency 92, May 1, 1976. Regulations applying to dealers were transferred to Agency 92, article 50. Regulations applying to titles and registration were transferred to Agency 92, article 51.

36-20-1 and 36-20-2. Not in active use.

Editor's Note:

Transferred to Agency 92.

36-20-3. (Authorized by K.S.A. 8-191; effective Jan. 1, 1966; revoked May 1, 1979.)

36-20-4 to 36-20-11. Not in active use.

Editor's Note:

Transferred to Agency 92.

36-20-12. (Authorized by K.S.A. 8-191; effective Jan. 1, 1966; revoked May 1, 1979.)

36-20-13 to 36-20-43. Not in active use.

Editor's Note:

Transferred to Agency 92.

36-20-44 to 36-20-49 Not in active use.

36-20-50. Not in active use.

Editor's Note:

Transferred to 92-51-20, May 1, 1979.

Article 21.—OPERATORS' AND CHAUFFEURS' LICENSES

36-21-1 and 36-21-2. (Authorized by K.S.A. 74-2011; effective Jan. 1, 1966; revoked May 1, 1979.)

36-21-3. (Authorized by K.S.A. 74-2011; effective Jan. 1, 1966; revoked, E-71-9, Jan. 1, 1971; revoked Jan. 1, 1972.)

36-21-4. Not in active use.

Editor's Note:
Transferred to 92-52-4, May 1, 1979.

36-21-5. Not in active use.

Editor's Note:
Transferred to 92-52-8, May 1, 1979.

36-21-6. (Authorized by K.S.A. 8-191, K.S.A. 1971 Supp. 8-240(e), 74-2004; effective Jan. 1, 1966; amended, E-71-9, Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1979.)

36-21-7. Not in active use.

Editor's Note:
Transferred to 92-52-3, May 1, 1979.

36-21-8 and 36-21-9. (Authorized by K.S.A. 74-2011; effective Jan. 1, 1966; revoked May 1, 1979.)

36-21-10. Not in active use.

Editor's Note:
Transferred to 92-52-1, May 1, 1979.

36-21-11. (Authorized by K.S.A. 8-239; effective Jan. 1, 1966; revoked May 1, 1979.)

36-21-12. (Authorized by K.S.A. 74-2011; effective Jan. 1, 1966; revoked, E-71-9, Jan. 1, 1971; revoked Jan. 1, 1972.)

36-21-13 to 36-21-26. Reserved.

36-21-27. Not in active use.

Editor's Note:
Transferred to 92-52-5, May 1, 1979.

36-21-28 and 36-21-29. Reserved.

36-21-30 and 36-21-31. Not in active use.

Editor's Note:
Transferred to 92-52-6 and 92-52-7, respectively, May 1, 1979.

Article 22.—SAFETY RESPONSIBILITY

36-22-1. (Authorized by K.S.A. 8-191, 8-723, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1966; amended, E-67-12, July 1, 1967; amended Jan. 1, 1969; amended, E-71-9, Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1979.)

36-22-2 to 36-22-5. (Authorized by K.S.A. 8-723; effective Jan. 1, 1966; revoked May 1, 1979.)

36-22-6 and 36-22-7. (Authorized by K.S.A. 8-191, 8-723, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1966; amended, E-71-9, Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1979.)

36-22-8. (Authorized by K.S.A. 8-723, 8-747(b)(1), K.S.A. 1971 Supp. 74-2004; effective, E-71-9, Jan. 1, 1971; effective Jan. 1, 1972; revoked May 1, 1979.)

36-22-9 to 36-22-14. (Authorized by K.S.A. 8-723, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1972; revoked May 1, 1979.)

36-22-15. (Authorized by K.S.A. 7-104, 8-723, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1972; revoked May 1, 1979.)

36-22-16 to 36-22-21. (Authorized by K.S.A. 8-723, K.S.A. 1971 Supp. 74-2004; effective Jan. 1, 1972; revoked May 1, 1979.)

Article 23.—REFUSAL TO TAKE BLOOD ALCOHOL TEST

36-23-1. (Authorized by K.S.A. 8-191, 74-2011, K.S.A. 1971 Supp. 8-1001, 74-2004; effective Jan. 1, 1966; amended, E-71-9, Jan. 1, 1971; amended Jan. 1, 1972; revoked May 1, 1979.)

Article 24.—REISSUE TITLE

36-24-1. (Authorized by K.S.A. 74-2011; effective Jan. 1, 1966; revoked May 1, 1979.)

Article 25.—TRANSPORTATION OF HAZARDOUS MATERIALS

36-25-1. (Authorized by K.S.A. 8-1746; effective May 1, 1976; revoked May 1, 1983.)

Article 26.—RAILROAD GRADE CROSSINGS

36-26-1. Railroad grade crossings; stopping required. (a) K.S.A. 8-1553 requires that

the drivers of certain types of motor vehicles, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals including active flashing light signals with or without gates or bells indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver shall not manually shift gears while crossing the track or tracks. Following are the types of vehicles for which this regulation applies:

(1) Every school or commercial bus;

(2) every motor vehicle transporting any quantity of chlorine;

(3) every motor vehicle which, in accordance with the regulations of the department of transportation, is required to be marked or placarded with one of the following markings:

(A) Explosives A;
(B) Explosives B;
(C) Poison Gas;
(D) Flammable solid W;
(E) Radioactive;
(F) Flammable;
(G) Blasting agent;
(H) Nonflammable gas;
(I) Chlorine;
(J) Poison;
(K) Oxygen;
(L) Flammable gas;
(M) Combustible;
(N) Flammable solid;
(O) Oxidizer;
(P) Organic peroxide;
(Q) Corrosive; or
(R) Dangerous;

(4) every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in 49 C.F.R. 170-189;

(5) every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by 49 C.F.R. 173.115;

(6) every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under an exemption issued in accordance with 49 C.F.R. 107.101-107.123.

(b) Exceptions to the requirement for vehicles to stop at every railroad grade crossing shall be:

(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;

(2) any railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits the vehicle to proceed across the railroad tracks without slowing or stopping;

(3) any railroad grade crossing which has been abandoned or its use discontinued with track or tracks still in place with a sign reading "TRACKS OUT OF SERVICE";

(4) any industrial or spur line railroad grade crossing marked with a sign reading "EXEMPT." Such exempt signs shall be erected only by or with the consent of the appropriate state or local authority;

(5) a railroad grade crossing used exclusively for industrial switching purposes, within a business district defined in K.S.A. 8-1407, and amendments, thereto. This type of crossing shall also, as in the previous section (d), be marked with a sign reading "EXEMPT." (Authorized by and implementing K.S.A. 1989 Supp. 8-1553; effective May 1, 1976; amended May 1, 1983; amended May 1, 1984; amended May 1, 1989; amended Aug. 13, 1990.)

Article 27.—JUNKYARD AND SALVAGE CONTROL

Editor's Note:

Effective August 15, 1975, the state salvage board was abolished and its powers and duties transferred to the secretary of transportation. At the secretary's request, the board's regulations were transferred to this article.

36-27-1. Unzoned industrial area. (1) For the purposes of this act an unzoned industrial area shall mean the land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within 1,000 feet thereof which is:

(a) Located on the same side of the highway as the principal part of said activity.

(b) Not predominantly used for residential or commercial purposes, and

(c) Not zoned by state or local law, regulation or ordinance.

(2) Industrial activities, for purposes of this definition, shall mean those permitted only in industrial zones, or in less restrictive zones by the

nearest zoning authority within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following shall be considered industrial activities:

(a) Outdoor advertising structures.

(b) Agricultural, forestry, ranching, grazing, farming and related activities; including, but not limited to, wayside fresh produce stands.

(c) Activities normally and regularly in operation less than three months of the year.

(d) Transient or temporary activities.

(e) Activities more than 300 feet from the nearest edge of the main traveled way.

(f) Activities conducted in a building principally used as a residence.

(g) Railroad tracks, minor sidings, and passenger depots.

(h) Junkyards, as defined in K.S.A. 1968 Supp. 68-2203 (c), except junkyards which are appurtenant to and on the same premises as an existing industrial activity. (Authorized by K.S.A. 68-2204, 68-2212; effective, E-70-7, Nov. 26, 1969; effective Jan. 1, 1971.)

36-27-2. Locations under same certificate of compliance. One application and one certificate of compliance may be approved by the beautification administrator for salvage storage locations within the same county and under identical ownership if all locations are identified on the application. (Authorized by and implementing K.S.A. 68-2212; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-3. Transfers of ownership of certified locations. When a transfer occurs in the ownership of a certified salvage storage location, the following will be required:

(a) If a transfer in ownership does not constitute a change in the entire ownership, the owner or owners shall apply for a correction of the owner records at no additional fee. Transfers of ownership may include the following:

(1) The addition of a partner to the business;

(2) the withdrawal of a partner from the business or the sale and transfer of the interest of a partner; or

(3) ownership and operation of the business by a surviving spouse, personal representative, heir, legatee of the deceased owner or one or more of them.

(b) If the change in ownership constitutes a total change in ownership of the certified location, the new owner or owners shall apply for a new certificate of compliance. The application shall be accompanied by the annual or semiannual fee, whichever is applicable. (Authorized by K.S.A. 68-2212; implementing K.S.A. 68-2205, as amended by L. 1987, Ch. 263, Sec. 1; effective Jan. 1, 1972; amended May 1, 1988.)

36-27-4. Persons exempt from junkyard certificate of compliance. Any person storing materials or equipment on property, located within 1,000 feet of the right-of-way of any public road, shall be exempt from obtaining a certificate of compliance if the materials or equipment are included in the following uses and categories:

(a) Any well drilling equipment purchased and stored for its intended use, reconditioning or resale for its intended use; or

(b) Any farm machinery owned by persons engaged in agriculture and intended for agricultural use. Inoperable farm machinery stored by the owner for purposes of removing and reselling parts to other persons or individuals shall be subject to the state salvage control law. (Authorized by and implementing K.S.A. 68-2212; effective Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1988.)

36-27-5. (Authorized by K.S.A. 1975 Supp. 68-2212; effective Jan. 1, 1972; revoked May 1, 1978.)

36-27-5a. Authority of the beautification administrator. The beautification administrator of the department of transportation shall be the designated representative of the secretary of transportation for purposes of administering the provisions of the junkyard and salvage control act. (Authorized by and implementing K.S.A. 1986 Supp. 68-2213, as amended by L. 1987, Ch. 263, Sec. 3; effective May 1, 1988.)

36-27-6. Inspection required for issuance of a certificate of compliance for junkyards created after May 4, 1967. (a) Before approval of any application for a certificate of compliance for junkyards created after May 4, 1967, a physical inspection of the junkyard location shall be made by the landscape architect of the department of transportation to determine whether the junkyard is visible to motorists.

(b) A written report signed by the person making the inspection shall be submitted to the beautification administrator of the department, or the administrator's designated representative. The re-

port shall indicate whether screening the applicant's location is feasible. If screening is deemed feasible, the report shall contain a recommendation for either artificial or natural screening to be installed by the owner to conceal the junkyard from the view of motorists on the road. Failure by the owner, owners or operators to install the required screening within 90 days or within any extension of time granted by the beautification administrator, shall be grounds for revocation or suspension of the certificate of compliance. (Authorized by and implementing K.S.A 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-7. Provisional certificates of compliance; junkyards created after May 4, 1967. Upon written notice from the beautification administrator to the owner or operator of a junkyard created after May 4, 1967 of the screening required, a provisional certificate of compliance may be issued by the department to the owner. The provisional certificate shall be conditioned on the completed installation of the required screening within 90 days from the written notice. If inclement weather conditions interfere with the installation, an extension of time for the installation of the screening may be granted by the beautification administrator. Failure to install the required screening within 90 days, or within any extension of time granted by the administrator, shall be grounds for revocation or suspension of the provisional certificate of compliance pursuant to the provisions of K.S.A. 1986 Supp. 68-2213, as amended by L. 1987, Ch. 263. (Authorized by K.S.A. 68-2212, implementing K.S.A. 1986 Supp. 68-2213, as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-8. Periodic inspection of junkyard locations. Periodic inspections of certified junkyards shall be made by the designated representatives of the beautification administrator to insure that they are being operated and maintained in accordance with the rules and regulations of the secretary of transportation. Any owner or owners of a junkyard not maintained or operated in accordance with rules and regulations of the secretary of transportation shall be notified by the beautification administrator in writing, by registered mail or certified mail, return receipt requested. The notice shall specify the required corrections to be made within 30 days from receipt of the notice. Any owner who fails to make the corrections shall become subject to the provisions of K.S.A. 68-2209. Failure to make the required corrections shall be grounds for revocation or suspension of the certificate of compliance in accordance with K.S.A. 68-2213 and amendments thereto. (Authorized by K.S.A. 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; implementing K.S.A. 68-2209 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-9. Types of screening approved. Either artificial or natural screening may be used to conceal a junkyard from the view of motorists traveling on the road. All screening shall be of a type approved by the beautification administrator. The screening shall be serviceable as well as pleasing to sight. Screening may be effected by construction of a fence of metal, wood or other suitable material or by planting shrubs, trees or other types of natural screening or a combination of these methods as approved by the beautification administrator. When wooden planks or chain-link fence are installed at a junkyard location, the installation shall not permit the junkyard to be seen from the road by a motorist. Wooden planks shall be installed in such a manner that no storage in the junkyard can be seen from the road. Metal slats shall be interwoven into chain-link fence to the degree that no storage in the junkyard can be seen from the road. Either type of fencing must be of sufficient height to achieve the screening necessary and shall be of uniform height unless the beautification administrator approves a variation in such height. (Authorized by K.S.A. 1977 Supp. 68-2212; effective Jan. 1, 1972; amended May 1, 1978.)

36-27-10. Junkyards expanded. Any junkyard which is altered, changed or enlarged after May 4, 1967, so as not to conform to the junkyard and salvage control act, and is not made to conform to the act by its owner, shall constitute a public and private nuisance and shall be subject to abatement. This provision includes both junkyard locations subject to screening at state expense and locations created after May 4, 1967. Where an owner alters, changes or expands the junkyard location after May 4, 1967, the beautification administrator may recommend that additional screening be installed at the owners ex-

pense in lieu of the abatement proceedings. (Authorized by K.S.A. 1977 Supp. 68-2209, 68-2212; effective Jan. 1, 1972; amended May 1, 1978.)

36-27-11. (Authorized by K.S.A. 68-2212, implementing K.S.A. 1986 Supp. 68-2213; as amended by L. 1987, Ch. 263, Sec. 3; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988; revoked March 7, 1994.)

36-27-12. Zoning policy. Local government zoning ordinances or regulations affecting a salvage storage location shall not be abrogated or overruled by actions of the beautification administrator. Any owner with a storage location that was in existence prior to the passing of an ordinance or regulation forbidding use of the location for salvage storage shall be approved and certified by the administrator subject to salvage control regulations of the secretary of transportation. If at any time the owner or owners of a salvage storage location is required to abate and discontinue storage of salvage at a non-conforming location due to enforcement action brought about by a zoning authority, the certification of compliance shall be revoked by the beautification administrator. Any application for a certificate of compliance of a storage location, which, at the time of the creation of the location is not in conformance with applicable zoning ordinances or regulations of a local public authority, shall be denied by the beautification administrator. (Authorized by K.S.A. 68-2212 and K.S.A. 1986 Supp. 68-2213 as amended by L. 1987, Ch. 263, Sec. 3, implementing K.S.A. 68-2204; effective Jan. 1, 1972; amended May 1, 1978; amended May 1, 1988.)

36-27-13. Determination of whether failure to make original or renewal application for a certificate of compliance or to pay annual certification fee was intentional. When any person fails to make an original or renewal application for a certificate of compliance or to pay the annual certification fee within the time prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263, a determination as to whether the failure was willful or intentional shall be made by the beautification administrator. If the administrator finds and determines that failure to apply or pay the annual certification fee within the time prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263, was not willful or intentional, the penalty fee prescribed in K.S.A. 68-2205; as amended by L. 1987, Ch. 263 shall not be assessed by the beautification administrator. (Authorized by K.S.A. 68-2212, implementing K.S.A. 68-2205, as amended by L. 1987, Ch. 263, Sec. 1; effective Jan. 1, 1974; amended May 1, 1978; amended May 1, 1988.)

Article 28.—SERVICE BRAKES AND SECOND TOWED VEHICLES

36-28-1. Service brakes, second towed vehicles. When a combination of three (3) vehicles are connected by means of a tow bar mechanism, the second towed vehicle of the combination shall be equipped with service brakes acting on at least one (1) axle and shall be compatible to the equipment on the towing vehicle. (Authorized by and implementing K.S.A. 1980 Supp. 8-1907; effective May 1, 1981.)

Article 29.—PAYMENT OF MOVING EXPENSES

36-29-1. Relocation and moving assistance. Employees of the department who are transferred or relocated shall be reimbursed for moving expenses in accordance with the provisions and procedures established by the secretary of administration and set forth at K.A.R. 1-16-2a through 1-16-21. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 75-5022; effective May 1, 1983.)

Article 30.—CONSTRUCTION BIDDING PROCEDURES

36-30-1. Definitions. All definitions of terms relevant to this article shall be those which are set forth in the standard specifications for state road and bridge construction, 1980 edition, in subsections 101.01 through 101.77 inclusive, which are adopted by reference. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-2. Bidding requirements and conditions. The rules and regulations set forth in the standard specifications for state road and bridge construction, 1980 edition, subsections 102.01 through 102.17 inclusive, shall govern the bidding procedure for contracts let by the secretary, and are adopted by reference. All current notices and revisions shall be applicable, and shall be included with the proposal form furnished to each prospective bidder. (Authorized by and implement-

ing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-3. Qualification of bidders. (a) A prequalification committee composed of the director of operations, the bureau chief of construction and maintenance, and the controller shall determine the qualification rating for all prospective bidders, in accordance with the special provisions set forth at K.A.R. 36-30-2.

(b) Any contractor dissatisfied by the qualification rating of the committee may, within 10 days after its receipt, request in writing a reconsideration of the rating. This request shall list reasons for dissatisfaction.

(1) If a supplemental qualification statement will more accurately reflect the contractor's status, a supplemental statement may be filed along with the request for reconsideration.

(2) Upon receipt of the written request or supplemental qualification statement, the committee shall notify the contractor of the date, time and place it will reconsider the rating.

(3) The contractor may be represented at the reconsideration, and shall have the opportunity to be heard.

(4) Final action on the reconsideration shall be taken within 30 days from the date of receipt of the reconsideration request.

(c) Any contractor who is dissatisfied with the final action taken by the committee may, within 10 days after receipt of notification of the final action, appeal to the secretary, in writing, for a final hearing.

(1) Upon receipt of the written request for final hearing, the secretary shall notify the contractor of the date, time and place of the hearing.

(2) The secretary, or the secretary's designee, shall conduct the hearing. The contractor may be represented, and shall have the opportunity to be heard.

(3) Final action shall be taken by the secretary or the secretary's designee within 15 days after the hearing. (Authorized by K.S.A. 1982 Supp. 68-404, and K.S.A. 68-410; implementing K.S.A. 1982 Supp. 68-404, K.S.A. 68-407, 68-409 and 68-410; effective May 1, 1983; amended May 1, 1984.)

36-30-4. Sworn statement of bidders. (a) A sworn statement shall be executed by every bidder, or an agent of the bidder, on behalf of each person, firm, association or corporation submitting a proposal, certifying that the person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract. The sworn statement shall be in the form of an affidavit, and shall be sworn to before a person who is authorized by the laws of Kansas to administer oaths. The original of the sworn statement shall be filed with the department when the proposal is submitted.

(b) Failure to submit a sworn statement concerning collusion or restraint of free competitive bidding shall be grounds for rejection of the proposal. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-5. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983; revoked, T-85-3, Jan. 13, 1984; revoked May 1, 1985.)

36-30-6. Award and execution of contracts. (a) The rules and regulations set forth in the standard specifications for state road and bridge construction, 1980 edition, subsections 103.01 through 103.07 inclusive, shall govern the award and execution of contracts let by the secretary, and are adopted by reference.

(b) Partial payment. The procedures set forth in the standard specifications for state road and bridge construction, 1980 edition, subsection 109.07, shall govern the terms and conditions under which the secretary may withhold a part of the contract price from the contractor to assure that the provisions of the contract will be fully satisfied, and are adopted by reference. (Authorized by and implementing K.S.A. 68-410, 68-411, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-7. Authority of secretary. (a) A contract may be awarded by the secretary when only one bid is received for a project or projects, provided the bid is deemed reasonable and the contractor is deemed reliable by the secretary.

(b) This article shall not be construed to limit the authority of the secretary to contract or refrain from contracting within the discretion given to the secretary by law. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

Article 31.—DEBARMENT AND SUSPENSION OF CONTRACTORS

36-31-1. Definitions. (a) "Adequate evidence" means evidence sufficient to form the reasonable belief that a particular act or omission occurred. In addition, a conviction, judgment, or an admission regarding the causes in K.A.R. 36-31-2(a) shall constitute adequate evidence.

(b) "Admission" means a statement made by a contractor in a court, or before any public body or public official, that the contractor committed a certain act or omitted to perform a certain act.

(c) "Affiliate" means contractors having a relationship such that:

(1) Any one of them directly or indirectly controls or has the power to control another; or

(2) If the affected contractor is an individual, any other contractor in which the affected individual is an officer, director, or has controlling legal or beneficial financial interest, until the individual's interest is severed from the other contractor.

(d) "Contractor" means any individual person, or other legal entity, including its directors and officers, which submits offers for, is awarded, or reasonably may be expected to submit offers for or be awarded a contract for labor, services or materials or any combination of these. This definition shall include any subcontractor of this individual person or legal entity.

(e) "Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

(f) "Debarment" means an exclusion or bar from contracting with or bidding on contracts let by the secretary for a specified period of time.

(g) "Department" means the Kansas department of transportation.

(h) "Hearing official" means a designee of the secretary who may conduct a fact-finding hearing and may recommend debarment or continuance of suspension.

(i) "Judgment" means a judgment in a civil action by any court of competent jurisdiction.

(j) "Secretary" means the secretary of the Kansas department of transportation or an authorized representative or employee.

(k) "Suspension" means an exclusion or bar from contracting with or bidding on contracts let by the secretary for a temporary period of time, pending the completion of legal or debarment proceedings. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404(k); implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-2. Debarment. (a) Cause. The secretary may impose debarment upon a contractor for any of the causes listed below:

(1) Conviction, judgment, or admission of:

(A) fraud, collusion, or any criminal offense in connection with obtaining, attempting to obtain, or performing a contract let by the secretary or a subcontract of it;

(B) violation of federal or state anti-trust statutes;

(C) embezzlement, theft, forgery, bribery, perjury, falsification or destruction of records, making false statements, receiving stolen property, and obstruction of justice;

(D) violation of any applicable laws governing hours of labor, minimum wage rates, discrimination in wages, or child labor; and

(E) violation of any laws indicating a lack of business integrity or business honesty which seriously and directly affect the present responsibility of the contractor to public contracts or subcontracts of them.

(2) Violation of the terms of a contract let by the secretary, or a subcontract of a contract let by the secretary, including but not limited to the following:

(A) willful failure to perform in accordance with contract specifications; and

(B) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that the failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was substantially caused by acts within the control of the contractor.

(3) Any other cause that affects the question of present responsibility as a contractor or subcontractor on contracts let by the secretary, including conduct prescribed in (1) and (2) even if this conduct has not been or may not be prosecuted as violations of the laws or contracts.

(b) Procedures.

(1) The secretary or an authorized representative shall designate a hearing official to conduct any hearing held under these rules. The hearing official, upon determining from the secretary's reports, investigations, and other documents that

cause exists under (a) to debar a contractor, shall furnish written notice of a hearing to the contractor and any named affiliates. The notice shall state:

(A) that debarment is being considered;

(B) the facts giving rise to the proposed debarment;

(C) the cause or causes under (a) relied upon for proposing debarment;

(D) that the contractor may, within 30 days of receipt of the notice, submit to the hearing official, in writing, information and argument in opposition to or clarification of the proposed debarment;

(E) that, except when the action is based on a conviction, judgment, or admission, fact-finding shall be conducted if the hearing official determines that the contractor's submission raises a genuine dispute over material facts upon which the proposed debarment is based or whether the causes relied upon for proposing debarment purchaser exist;

(F) the time, place, and date of the hearing;

(G) the name and mailing address of the hearing official;

(H) if a suspension is not in effect before the notice being sent, that contracts shall not be awarded to the contractor by the secretary pending the decision by the hearing official.

(2) The hearing official may extend the date of any hearing upon request of the contractor, but the hearing shall not be extended to later than 60 days from the date the notice was sent. The hearing official shall schedule and conduct the hearing within 45 days of sending the notice, except when an extension is granted as provided in this subsection. In the course of the hearing, the hearing official shall:

(A) regulate the course and scheduling of the hearings;

(B) rule on offers of proof, receive relevant evidence, and make the proof and evidence part of the record;

(C) take action necessary to insure an orderly hearing; and

(D) at the conclusion of the hearing, issue to the secretary and the contractor and all named affiliates written findings of fact and recommended administrative action. The hearing officer shall deliver the entire record to the secretary.

(3) The contractor shall have the opportunity to be present and appear with counsel, submit evidence, present witnesses, and cross-examine all witnesses of the secretary. A transcribed record shall be made of the hearing unless the secretary and the contractor waive the transcript requirement. The transcript shall be available to the contractor and all named affiliates upon request and at cost.

In actions where it has been established by conviction, judgment or admission, or where it has been established by findings made in accordance with this regulation, that the named contractor has engaged in conduct prescribed in (a), the sole issue before the hearing official shall be the appropriate length of debarment to recommend to the secretary. In these cases, the hearing official shall not receive evidence relating to the merits of prior judicial or administrative decisions or findings.

The secretary, after receiving the record, findings of fact, and recommendations of the hearing official shall determine the administrative action to be taken. The secretary shall notify the named contractor or contractors of the secretary's determination in writing. If the determination is to impose debarment, the determination shall set forth the period of time the contractor or contractors are to be debarred from bidding on contracts or subcontracts of the secretary and the reasons for debarment.

(c) Period. The secretary shall impose debarment for a period commensurate with the seriousness of the causes but this period shall not exceed 36 months. The secretary may reduce the period upon the contractor's request, supported by documentation, for reasons including, but not limited to:

(1) newly discovered evidence;

(2) reversal of the conviction of judgment upon which the debarment was based; and

(3) elimination of other causes for which the debarment was imposed.

(d) Scope. The determination made by the secretary may include all known affiliates of the contractor, provided that each decision to include an affilitate is made only after allowing the affiliate to participate in the hearing, with all the procedural rights of a contractor. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A 1982 Supp. 68-404; effective May 1, 1983.)

36-31-3. Suspension. (a) Cause. The secretary may impose suspension on a contractor when:

(1) adequate evidence exists so as to raise a rea-

sonable suspicion that any of the causes set forth in K.A.R. 36-31-2(a) are present; and

(2) the decision of the secretary is in the best interest of the state.

(b) Procedures.

(1) The secretary may, upon determining from reports, investigations, or other documents that cause exists under K.A.R. 36-31-3(a) to suspend a contractor, impose suspension upon the contractor and any named affiliates. The secretary shall furnish written notice to the contractor and any named affiliates at least five days before the effective date of suspension. The notice shall state:

(A) that a suspension has been imposed;

(B) the effective date of the suspension;

(C) the facts giving rise to the suspension;

(D) the cause or causes under 36-31-2(a) relied upon for the suspension;

(E) that the suspension is for a temporary period pending the completion of an investigation and any ensuing legal or debarment proceedings;

(2) Within 30 days after receipt of the notice, the contractor may submit to the secretary, in writing, information and argument in opposition to or clarification of the suspension.

(3) Except when the suspension is based on a conviction, judgment, or admission, a hearing shall be conducted if the secretary determines that the contractor's submission raises a genuine dispute over material facts upon which the suspension is based. The secretary shall determine whether this hearing is necessary within 10 days from receipt of the contractor's submission.

(4) If the secretary determines a hearing should be held, the hearing shall be held in accordance with the rules in K.A.R. 36-31-2(b), except that the hearing shall be for suspension and not for debarment.

(c) Period. A suspension shall be for a temporary period pending the completion of investigation and any ensuing legal or debarment proceedings, unless sooner terminated by the secretary. A suspension shall not continue for more than 6 months from its effective date, unless civil or criminal action regarding the alleged violation has been initiated within that period, or unless debarment proceedings have been initiated. The suspension shall continue until the legal or debarment proceedings are completed.

(d) Scope. The scope of suspension shall be the same as that for debarment, set forth in K.A.R. 36-31-2(d). (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404(k); implementing K.S.A. 68-402, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-4. Effect on current contracts. (a) The secretary may continue contracts or subcontracts in existence at the time a contractor is debarred or suspended. A decision as to termination by the secretary shall be made only after review of all the facts and circumstances surrounding the debarment or suspension as they affect the responsibility of the contractor.

(b) Contracts shall not be renewed by the secretary once the contractor has been debarred or suspended. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-5. List. The secretary shall maintain a list of all persons, partnerships, corporations, or associations who have been debarred or suspended in accordance with the procedures prescribed in this article. This list shall be made available for public inspection. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-6. Contract authority. This article shall not be construed to limit the authority of the secretary to contract or refrain from contracting within the discretion given to the secretary by law. (Authorized by K.S.A 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

Article 32.—USE OF ROADSIDE FACILITIES

36-32-1. Definitions. (a) "Authorized representative or officer" means any individual person empowered by an organization or group to enter into contract or agreements on behalf of such organization or group.

(b) "Civic or service organization" means any private non-profit organization which provides social services for the general welfare of the public.

(c) "Department" means the Kansas department of transportation.

(d) "Roadside facility" means any rest area, park facility or picnic area under the jurisdiction and supervision of the secretary of transportation. This shall also apply to any structures or features such as entrances or exits, toilets, and camping

areas. (Authorized by and implementing K.S.A. 68-423f; effective May 1, 1983.)

36-32-2. Use of roadside facilities. (a) Roadside facilities which are adjacent to Kansas roads shall be available to the traveling public for rest, relaxation and historical information.

(b) The following restrictions shall apply to the use of any roadside facility maintained by the department:

(1) Overnight camping shall be permitted for one night only.

(2) Vehicles shall not be parked in a manner which obstructs the roadside facility.

(3) Parking for more than 24 hours shall be prohibited.

(4) Trucks and equipment shall use temporary parking areas marked for that purpose.

(5) Civic and service organizations may be permitted the use of roadside facilities to serve refreshments to the traveling public on holidays with the following restrictions:

(A) Refreshments may not be sold.

(B) Donations may not be solicited.

(C) Signs advertising the service shall not be permitted, except within the confines of the roadside facility.

(D) Placement of stands, serving trucks or carts shall not obstruct the roadside facility.

(E) An authorized representative or officer of the organization or civic group shall assume responsibility in writing for use of the facility in accordance with these regulations, and shall be relieved of the responsibility following a satisfactory inspection by a representative of the department.

(6) No person or persons shall engage in any activity or be a party to any activity which would in any way obstruct the public from the use of any roadside facility. (Authorized by and implementing K.S.A. 68-423f; effective May 1, 1983.)

Article 33.—WEIGHT LIMITS FOR TRUCKS

36-33-1. (Authorized by K.S.A. 68-402, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1909a; effective May 1, 1983; revoked May 1, 1984.)

Article 34.—CHILD PASSENGER SAFETY

36-34-1. (Authorized by and implementing K.S.A. 8-1344; effective May 1, 1983; amended May 1, 1984; revoked Oct. 13, 2000.)

Article 35.—TRANSPORTING TWO COMBINE HEADERS

36-35-1. (Authorized by and implementing K.S.A. 8-1902; effective May 1, 1983; revoked Aug. 15, 1997.)

Article 36.—WIDTHS OF VEHICLES AND LOADS

36-36-1. Vehicle widths. The total outside width of any vehicle, excluding side mounted rear view mirrors, shall not exceed the limits prescribed by K.S.A. 8-1902, as amended by L. 1983, Ch. 41, Sec. 1. The following devices shall be permitted to extend three inches out on either side of any vehicle, provided that an overall vehicle/load width of 108 inches is not exceeded: (a) Turn signals;

(b) hand holds equipment;

(c) splash and spray suppressant devices; and

(d) load-induced tire bulge. (Authorized by K.S.A. 1983 Supp. 68-404 and K.S.A. 8-1902; implementing K.S.A. 1983 Supp. 8-1902; effective, T-84-12, July 1, 1983; effective May 1, 1984.)

Article 37.—THE OILFIELD CERTIFICATION PROGRAM

36-37-1. Definition section. (a) "Annual certification fee" means the monetary amount which each company must pay in order to become certified.

(b) "Annual certification permit" means the official form that allows operation of an OSR on state highways and which is valid only when signed by a representative of KDOT and the applicant.

(c) "Bridge analysis" means the evaluation process completed by KDOT bridge design section and staff to determine whether to allow movement of an OSR.

(d) "Holidays" means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

(e) "Inventory number" means the number which uniquely identifies that particular OSR as part of an applicant's inventory.

(f) "KDOT" means the Kansas department of transportation.

(g) "KHP" means Kansas highway patrol.

(h) "Local law enforcement agency" means the area police department or enforcement agency having the responsibility for enforcing the provisions of these regulations.

(i) "Oilfield servicing rig" means a vehicle, which is self-propelled and used in well servicing, well clean-out, and consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purposes. All equipment on the oilfield servicing rig shall be "reasonably non-divisible." An "oilfield servicing rig" shall hereafter be referred to as "OSR."

(j) "OSR certification" means the process each applicant must complete before being allowed to operate an OSR on any state maintained highway.

(k) "Place of business" means the location designated by an owner central to the operation of each OSR.

(l) "Reasonably non-divisible" shall, for the purpose of this section, mean all necessary tools to be used in the servicing of a well. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

36-37-2. Violations. (a) The KHP and local law enforcement agencies shall enforce the provisions of these regulations.

(b) The KHP or local law enforcement agency shall halt the movement of an OSR and issue appropriate fines if it determines that:

(1) an OSR does not comply with these regulations;

(2) the annual certification permit cannot be produced; or

(3) further movement of the OSR will create an unsafe condition or may cause injury to the traveling public. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

36-37-3. Requirements. (a) When an OSR exceeds the standards defined in K.S.A. 8-1902, 8-1904, 8-1908 and 8-1909, the applicant shall contact KDOT to obtain an annual certification permit before operating the OSR on any state highway.

(b) A certified OSR shall operate only within a 100-mile radius of the designated place of business.

(c) An OSR shall not be allowed to cross any posted bridge or structure which has been restricted to an axle, tandum, or gross weight that is less than the axle, tandum, or gross weight of the OSR.

(d) No OSR shall travel on the Interstate system.

(e) An oversize/overweight permit must be obtained by the owner of any OSR moving outside a 100-mile radius from its designated place of business or when moving an OSR which exceeds the maximum axle or gross weight allowed in these regulations.

(1) The owner of an OSR which moves outside the 100-mile radius from the designated place of business shall:

(A) Obtain an oversize/overweight permit form from KDOT;

(B) Provide the information listed on the form;

(C) Obtain approval from KDOT for the move; and

(D) Pay the appropriate permit fee.

If approval is by telephone, a copy of the oversize/overweight permit and the permit fee must be mailed to KDOT within 24 hours. A return trip shall be allowed on the original OSR permit, if the move can be made within seven calendar days.

(2) An OSR exceeding the axle or gross weights specified in these regulations must make a written request to KDOT for a bridge analysis.

(A) The analysis shall be completed and approval granted before the OSR can be permitted movement on any state highway.

(B) A bridge analysis shall not be required for the return trip, provided that:

(i) The gross weight of the OSR has not changed significantly;

(ii) The route used for the return trip is the same as the route originally used by the OSR to reach the worksite; and

(iii) The return trip is made within 60 days.

The owner of the OSR shall contact the area or district engineer before moving to determine the condition of the route, to furnish the engineer with the time and date of the move and to receive final approval.

(3) Authorizations for oversize/overweight permits are limited to seven calendar days.

(4) An oversize/overweight permit shall not be renewed. If additional time is necessary, a new oversize/overweight permit shall be purchased.

(5) Issuance of an oversize/overweight permit shall not affect the status of any prior OSR certification which has been issued to the owner of the OSR.

(6) Deviation from the route shown on the oversize/overweight permit shall not be permitted, except that marked detours shall be considered part of the original permit.

(7) No oversize/overweight permit shall be modified after it has been issued.

(g) An OSR shall be allowed to operate on Sat-

urdays as part of its regular operation. Movement of an OSR on Sundays and holidays shall be limited to the crossing of state highways at intersections.

(h) No OSR may pass under or cross any structure, bridge overpass or underpass without a minimum clearance of six inches from any part of such structure, bridge overpass or underpass.

(i) An overweight OSR shall not be allowed to cross any posted bridge or structure which has been restricted to an axle, tandem or gross weight that is less than the axle, tandem or gross weight of the OSR.

(j) Acceptance of the annual certification permit or of any oversize/overweight permit by the applicant shall be evidence the applicant assures full compliance with all requirements contained in K.S.A. 8-1911 and these regulations.

(k) Every OSR is subject to periodic inspections at the discretion of KDOT, KHP or the local law enforcement agency.

(l) Each annual certification permit or oversize/overweight permit shall be issued to a specific OSR and applicant, and shall not be transferable to another owner or OSR.

(m) A valid copy of the annual certification permit and any authorized oversize/overweight permit shall be carried in the OSR.

(n) The annual certification permit remains valid for one year.

(o) All axles shall be permanently fastened to the OSR.

(p) Each axle shall be secured in such a fashion to the OSR which eliminates all possibility of any axle being raised or lowered during movement of the OSR.

(q) The tires for an added axle shall be the same size and type as those on the nearest axle.

(r) All pressure-controlling devices shall be located outside the cab of the OSR and shall not be accessible to the driver while inside the cab of the OSR.

(s) Each axle of a tandem or triple configuration of an OSR shall always carry a proportional amount of weight. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

36-37-4. Insurance requirements. (a) An applicant shall have all motor vehicle liability insurance coverages as required by federal, state and local law for the type of vehicle for which certification is sought.

(b) All insurance requirements shall be in force as of the date of certification and maintained after that date for the period covered by the certification.

(c) The applicant shall furnish proof of insurance upon demand by the KDOT or local law enforcement agency.

(d) Failure to maintain required coverages shall result in revocation of the certificate. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

36-37-5. Fees. (a) Fees associated with the "oilfield certification" program shall be those established in K.S.A. 8-1911.

(b) No refunds or adjusting of fees received by the KDOT shall be permitted. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

36-37-6. Weight limitations. (a) The maximum axle weights allowed for an annual certification shall be:

(1) 24,000 pounds for single axles;

(2) 49,000 pounds for tandem axles; and

(3) 60,000 pounds for tridem axles.

(b) The maximum gross weights allowed for an annual certification shall be:

(1) 89,000 pounds for four axles;

(2) 95,000 pounds for five axles;

(3) 110,000 pounds for six axles; and

(4) 120,000 pounds for seven axles or more. (Authorized by and implementing K.S.A. 8-1911; effective April 19, 1993.)

Article 38.—THE MULTI-JURISDICTIONAL OVERSIZE, OVERWEIGHT PERMIT PROGRAM

36-38-1. Special limitations. A permit for travel in those states included in the multi-state agreement of the Multi-Jurisdictional Oversize/Overweight program of the Mississippi Valley region may be issued by the secretary or the secretary's designee. Permits issued in accordance with the multi-state agreement shall be issued only on the form approved by the permit officials of each state. (Authorized by and implementing K.S.A. 8-1911; 68-404; effective April 19, 1993.)

36-38-2. Adoption of standards. The Kansas department of transportation adopts by reference the standards established in the General Conditions of the Multi-jurisdictional Oversize/Overweight program. (Authorized by and imple-

menting K.S.A. 8-1911; 68-404; effective April 19, 1993.)

Article 39.—RAIL SERVICE ASSISTANCE PROGRAM

36-39-1. Priorities for loan guarantee applications. (a) Compliance with the following criteria shall increase the priority standing of an application for a loan guarantee:

(1) the rail lines affected have less than 5,000,000 gross tons per mile annually;

(2) the application demonstrates a higher benefit-to-cost ratio than the minimum ratio required by statute and regulation;

(3) the application demonstrates that operations will be made more efficient by raising the minimum operating speed to one of the following F.R.A. classes:

(A) F.R.A. class one to F.R.A. class two; or

(B) F.R.A. class two to F.R.A. class three;

(4) the application demonstrates a positive statewide or regional economic impact;

(5) the application demonstrates that the project for which funding is sought will result in road or highway maintenance cost savings for state and local governmental entities;

(6) the application describes the tangible assets of and the net worth of the applicant; and

(7) the application demonstrates the commitment of capital, or the guarantee of a set amount of rail traffic by local shippers, governmental entities or other interested parties, to the applicant for the continued operations of rail service for which a loan guarantee is sought. (Authorized by K.S.A. 1995 Supp. 75-5050 and 75-5046; implementing K.S.A. 75-5040; effective Aug. 30, 1993; amended July 11, 1997.)

36-39-2. Definitions. As used in this article, the following words and phrases shall have the meanings ascribed to them in this regulation.

(a) "Applicant" means any qualified entity which submits an application to the secretary for a loan guarantee.

(b) "Commission" means the interstate commerce commission.

(c) "Equipment" means any type of new or rebuilt standard gauge locomotive or general service railroad freight car. General service railroad freight cars may include a boxcar, gondola, open-top or covered hopper car, and flatcar.

(d) "Facilities" means the following:

(1) track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, repair shops, connecting tracks, and public improvements used or usable for rail service operations;

(2) signals and interlockers; and

(3) terminal or yard facilities, including trailer-on-flatcar and container-on-flatcar terminals, railroad terminal and switching facilities, and service to express companies and railroads and their shippers.

(e) "F.R.A." means federal railroad administration of the United States department of transportation.

(f) "Lender" means the obligee, holder or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee, holder or creditor, pursuant to an agreement to which the obligor is a part, the term refers to such bank or trust company.

(g) "Loan guarantee" means a guarantee by the state of Kansas to pay off the remaining principal of a specific loan under the terms of K.A.R. 36-39-3.

(h) "Obligation" means a loan, note, conditional sale agreement, security agreement or other obligation issued or granted to finance or refinance facilities or equipment acquisition, construction, rehabilitation or improvement.

(i) "Obligor" means the debtor under an obligation, including the original debtor and any successor or assignee of such debtor who is approved by the secretary.

(j) "Qualified entity" means any railroad holding an interstate commerce commission certificate, a port authority established in accordance with Kansas law or any legal entity that obtains an interstate commerce commission certificate within six months after qualifying for a loan guarantee.

(k) "Secretary" means the secretary of the Kansas department of transportation, or the secretary's designee. (Authorized by K.S.A. 1995 Supp. 75-5046 and 75-5050; implementing K.S.A. 75-5046, 75-5047, 75-5048 and 75-5049; effective Aug. 30, 1993; amended July 11, 1997.)

36-39-3. Requirements and conditions for application for a loan guarantee. (a) Each qualified entity and its lender shall file with the secretary the original and 10 copies of each application.

(b) The loan guarantee program's aggregate annual obligations shall not exceed $5,000,000. If,

at the time of application, loan guarantees have previously been approved by the legislature or state finance council during the same fiscal year, the amount requested shall not exceed the difference of $5,000,000 and the amounts previously approved during that fiscal year. The sum of the amounts sought in each fiscal year, including any outstanding loan guarantees previously approved pursuant to K.S.A. 1995 Supp. 75-5046, shall not exceed $20,000,000.

(c) The applicant and lender shall acknowledge in the application that obligations of the state of Kansas resulting from the approval of an application shall be limited to payment of the remaining principal of the specific loan after lenders have exhausted all other available remedies against the obligor.

(d) Each application shall include the following:

(1) the full and correct name, principal business address, telephone number and facsimile number of the applicant;

(2) the date of the applicant's incorporation, or organization if not a corporation, and the name of the government, state, or territory under the laws of which it was incorporated or organized. If the applicant is a partnership, association or other form of organization other than a corporation, a full description of the organization shall be furnished;

(3) the name, title, and address of the person to whom correspondence regarding the application should be addressed;

(4) a certified copy of proposed or executed loan agreements, including related agreements or other documents, and detailed descriptions of the loan guarantee, including:

(A) the total amount of the loan to be guaranteed;

(B) a description of all facilities included in or directly affected by the proposed project, the physical condition of such facilities and a description of the project;

(C) each part or sub-part into which the project may reasonably be divided and the priority and schedule of expenditures for each part or subpart;

(D) the estimated timing of the expenditure of the proceeds of the loan;

(E) a statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise. The applicant shall include a description of the relative participation of the applicant and the other railroad or participant, including a statement of the financing arrangements of each participant, the portion of the work to be performed by each participant and the contemplated level of usage of the facility by each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters;

(F) the effective date of the loan;

(G) a schedule of repayment of the principal and interest;

(H) a description of the security to be offered the secretary in connection with any loan guarantee, including a description of the priority of this loan in relation to other liens or security interests on the property that is designated as security, the applicant's opinion of the value of this security, and the basis for the opinion; and

(I) a description of the lender's security and remedies against the obligor or any other parties before the state of Kansas is obligated to pay any defaulted loan; and

(J)(i) if the loan for which a guarantee is sought is outstanding, the effective interest rate of the loan for which a loan guarantee is sought; or

(ii) if the applicant has discussed with a potential lender the terms of a loan guarantee to be issued, the proposed effective rate of interest.

(5) a statement, in summary form, showing financial obligations to or claims against the state of Kansas or obligations for which the state of Kansas is guarantor, if any. Such statements shall be made by the applicant, any affiliated corporate entity of the applicant or the applicant's parent, and shall describe the following:

(A) the status of any and all claims under litigation; and

(B) any other debts or guarantees existing between the applicant and the state of Kansas, including the name of the department or agency involved in such loans, claims or other debts;

(6) an analysis which includes the following:

(A) a statement that the financing is justified by present and future demand for rail services, that the financing will meet existing needs for such services and that the project will provide shippers with improved service. The applicant shall submit supporting evidence with the statement, including copies of all market analyses and studies which have been performed to determine present and future demand for rail services;

(B) a description of the impact of the financing upon the projected traffic to be originated, terminated, or carried by the obligor for at least the five years immediately following completion of the project;

(C) a five-year *pro forma* statement of cash flow attributable to the project; and

(D) a description of any other benefit which would accrue to the applicant from the proceeds of the obligation;

(7) a business plan, with supporting evidence, showing:

(A) that the applicant is financially capable of acquiring, rehabilitating, or improving facilities in an efficient and economical manner;

(B) that the ratio of benefits-to-costs for any project funded by such guaranteed loan will be greater than one. The benefit-to-cost methodology to be used for this determination shall be the "Benefit-cost methodology for the Local Rail Freight Assistance Program" approved by the F.R.A. in July, 1990;

(C) that the applicant will submit with the application audited financial statements, prepared in accordance with generally accepted accounting principles, for the past two annual accounting periods;

(D) any car supply agreements and the estimated rail traffic;

(E) a balance sheet, income statement, statement of changes in financial position or statement of cash flows, notes to financial statements, operating plans and appraisals of the assets to be acquired;

(F) that the applicant has been turned down by a lending institution and that adequate funding for the proposed project is not otherwise available on terms that would make the proposed project financially feasible, in the absence of a state loan guarantee; and

(G) a written opinion from bond counsel that the guarantee of such loan by the secretary would not adversely affect the rating of bonds issued pursuant to K.S.A. 1995 Supp. 68-2314 *et seq.,* and amendments thereto;

(8) a statement, with supporting evidence, that the financing will improve the ability of the applicant to transport freight;

(9) a statement describing the maintenance program for the applicant's entire rail system and the planned maintenance program for the facilities financed by the proceeds of the obligation;

(10) from each existing lender or proposed prospective lender a statement which includes the following:

(A) the lender's full and correct name, principal business address, telephone number and facsimile number;

(B) references to applicable provisions of law, the lender's charter and other governing instruments that confer authority on the lender to accept the obligation;

(C) a copy of the loan agreement between the lender and the applicant;

(D) a brief statement of the circumstances and negotiations leading to the agreement by the lender to accept the proposed obligation;

(E) a copy of the lender's determination that the loan would not be economically feasible without the proposed loan guarantee;

(F) a statement of the nature and extent of any affiliation or business relationship between the existing or prospective lender and any of its directors, partners or principal executive officers, with the applicant and any of its directors, partners, or principal executive officers or with any person whose name is required to be furnished under this article; and

(G) a full and complete statement of all sums to be given to the lender in connection with the proposed obligation, including:

(i) the name and address of each person to whom any payment has been made or will be made and nature of any affiliation, association or prior business relationship between any person named in this paragraph and the lender or any of its directors, partners, or officers;

(ii) the amount of the cash payment or the nature and value of other consideration; and

(iii) any condition upon the obligation of the obligee to make any payment;

(11) a hazardous waste assessment report on the rail lines for which a loan guarantee is requested;

(12) a certificate of title to prove the applicant has the legal ability to allow its property to be encumbered;

(13) proof of liability insurance in effect in the amount of $5,000,000 per occurrence;

(14) an opinion from applicant's counsel that applicant is legally authorized to make this application and has no outstanding litigation or impediment that would impair its ability to perform the obligation;

(15) an acknowledgement by the applicant that the secretary may conduct a pre-audit of appli-

cant's accounting system to determine if the system is adequate to isolate and accumulate project costs; and

(16) any additional information that the applicant deems appropriate to convey a full and complete understanding of the project and its impact or to otherwise assist the secretary in making a determination. (Authorized by K.S.A. 1995 Supp. 75-5046; implementing K.S.A. 1995 Supp. 75-5046 and 75-5047; effective Aug. 30, 1993; amended July 11, 1997.)

36-39-4. Forms. The applicant shall file an application on the forms provided by Kansas department of transportation labeled and assembled using the following format:

(a) application summary;

(b) exhibit "A," description of applicant;

(c) exhibit "B," description of project;

(d) exhibit "C," description of cost benefit ratio;

(e) exhibit "D," pro forma cash flow statement;

(f) exhibit "E," rehabilitation, repair and construction cost estimate;

(g) exhibit "F," historic and current financial statements;

(h) exhibit "G," identification of officers and directors;

(i) exhibit "H," shipper/receiver surveys;

(j) exhibit "I," lender's information; and

(k) exhibit "J," miscellaneous. (Authorized by and implementing K.S.A. 1991 Supp. 75-5046; effective Aug. 30, 1993.)

36-39-5. Pre-application conference. A pre-application conference shall be held between the prospective applicant and department of transportation staff before an application for a loan guarantee is filed. The proposed project shall be reviewed and guidance given to the prospective applicant on how to proceed. Applications shall not be filed sooner than 30 days after the pre-application conference. (Authorized by and implementing K.S.A. 1991 Supp. 75-5046; effective Aug. 30, 1993.)

36-39-6. Rail service financial assistance; loans and grants. (a) Compliance with the criteria in K.A.R. 36-39-1(a) shall increase the priority standing of an application for a loan for railroad financing, acquisition and rehabilitation in the state of Kansas.

(b) Monies to be loaned shall originate from the rail service improvement fund.

(c) Each application for a loan shall meet the requirements of 49 C.F.R. 266 (1979), and 49 U.S.C.A. App. § 1654 (1990) unless projects have been previously evaluated in a Kansas rail plan or rail plan update.

(d) All funds loaned shall be repaid to the department of transportation within 10 years or less with an interest rate established in the loan agreement between the secretary and applicant that is equal to or less than the federal discount rate charged to depository institutions as published in the "Wall Street Journal" on the date of the application.

(e) Each application shall be in the form prescribed by the Kansas department of transportation.

(f) Monies for grants shall come from the federal railroad administration funds available through the local rail freight assistance act.

(g) Each grant application shall meet the requirements of 49 C.F.R. 266 (1979) and 49 U.S.C.A. App. § 1654 (1990) unless the project has been previously evaluated in a Kansas rail plan or rail plan update. (Authorized by K.S.A. 1995 Supp. 75-5050; implementing K.S.A. 75-5048 and 75-5049; effective Aug. 30, 1993; amended July 11, 1997.)

Article 40.—TRANSPORTATION REVOLVING FUND

36-40-1. Definitions. For the purposes of the regulations in this article, the following words and phrases shall be defined as follows: (a) "Act" means K.S.A. 75-5063 *et seq.*, and amendments thereto.

(b) "Applicant" means any governmental unit filing an application with the secretary for financial assistance under the act.

(c) "Approved project" means the scope of work for a transportation project for which financial assistance is provided.

(d) "Debt service" means the principal, interest, and any premium required to be paid pursuant to a financial assistance agreement.

(e) "Financial assistance" means any credit enhancement, loan, or refunding or acquisition of bonds previously issued by the applicant as approved by the secretary pursuant to the act.

(f) "Financial assistance agreement" means a contract between an applicant and the secretary confirming the purpose of the financial assistance, the amount and terms of the financial assistance,

the schedule of financial assistance payments and repayments, if any, and any other agreed-upon conditions applicable to that approved project.

(g) "Final acceptance" means the point at which the contractor has completed all work on an approved project and the licensed professional engineer responsible for the inspection informs the department in writing that all work specified in the construction contract has been completed in substantial conformity with the plans, specifications, and any authorized revisions.

(h) "KDFA" means the Kansas development finance authority, which is a public body, politic and corporate, and an independent instrumentality of the state established at K.S.A. 74-8903 and amendments thereto.

(i) "Inspector" means an individual who meets the following requirements:

(1) (A) Is a licensed professional engineer or is supervised by a licensed professional engineer; and

(B) is provided by the applicant to observe the work performed and test the materials used in an approved project according to its plans and contract documents; and

(2) has successfully completed the department's certified inspector training appropriate for the work being inspected.

(j) "Licensed professional engineer" means a person licensed as a professional engineer by the state board of technical professions pursuant to K.S.A. 74-7001 *et seq.* and amendments thereto.

(k) "Maintenance" means a type of transportation project that extends the design life of a bridge, culvert, highway, road, or street, or combination of these, but does not, as the major purpose, enhance the structural integrity.

(l) "Opened to unrestricted travel" means that all travel lanes are open to vehicle traffic and no construction speed restrictions remain in place.

(m) "Transportation project" means the acquisition, construction, improvement, repair, rehabilitation, maintenance, or extension of any bridge, culvert, highway, road, or street, or combination of these, for which an application has been filed for financial assistance from the fund. (Authorized by and implementing K.S.A. 2002 Supp. 75-5065; effective Oct. 31, 2003.)

36-40-2. Application and supporting documents. (a) An application for financial assistance from the fund may be submitted to the secretary at any time.

(b) Each applicant for financial assistance for a transportation project shall submit, for the secretary's review and consideration for approval, the following application documents:

(1) A completed financial assistance application on a form furnished by the secretary;

(2) a detailed statement that establishes the need for the transportation project;

(3) documentation that provides sufficient detail regarding the transportation project to enable the secretary to determine its estimated costs, the purpose for the financial assistance, and the time period in which the financial assistance is to be used;

(4) an overall completion schedule for the transportation project, submitted in a form prescribed by the secretary; and

(5) information that establishes to the secretary's satisfaction that the applicant has the financial capability to satisfy its obligations under the financial assistance agreement and addresses at least the following areas:

(A) Projected economic and population growth within the applicant's jurisdictional boundaries;

(B) existing and forecasted debt obligations of the governmental unit making the application, during the term of the financial assistance agreement; and

(C) anticipated total revenues of the governmental unit making the application, during the term of the financial assistance agreement. (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5068; effective Oct. 31, 2003.)

36-40-3. Transportation project eligibility. (a) For a transportation project to be eligible for financial assistance, the following requirements shall be met:

(1) The applicant shall provide the secretary with the applicant's written assurance of the following:

(A) The applicant will use a licensed professional engineer to design the transportation project, if approved, in accordance with the then-existing generally recognized and prevailing engineering standards and with the federal and state laws and regulations applicable at the time of design, which shall include any subsequent design revisions for the approved project.

(B) The transportation project, if approved, will be inspected by an inspector, who shall provide reasonable assurance that the approved project is constructed in substantial conformity with its plans, specifications, and any authorized revisions.

(C) The construction of the transportation project, if approved, will conform to its plans, specifications, and any authorized revisions.

(D) The plans and specifications for the transportation project, if approved, shall not be revised or deviated from without the approval of the approved project's designer.

(2) The transportation project shall be consistent with the existing or planned state highway system, or both, as defined by K.S.A. 68-406, and amendments thereto.

(b) No portion of a transportation project's cost shall be eligible for financial assistance under the act if a federal reimbursement has been received for the same portion of the cost. (Authorized by and implementing K.S.A. 2002 Supp. 75-5065; effective Oct. 31, 2003.)

36-40-4. Fund use. The fund shall be used to finance or refinance approved projects, with priority given to the following types of financial assistance: (a) Loans for all or part of an approved project;

(b) guarantees, security, or another type of credit enhancement, or any combination of these, for bonds to be issued by KDFA or an applicant for financial assistance; and

(c) refunding or acquisition of bonds issued by an applicant. (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5066; effective Oct. 31, 2003.)

36-40-5. Financial assistance agreement requirements. Each financial assistance agreement entered into pursuant to the act shall meet the following requirements: (a) The financial assistance shall not exceed the total cost of the approved project.

(b) The term of any financial assistance shall not exceed the design life of the approved project or 20 years, whichever is less.

(c) If any debt service is required, it shall be guaranteed by the applicant in a manner consistent with the applicant's approved application.

(d) The financial assistance agreement shall contain the following sentences:

(1) "All work performed and all materials furnished for the approved project shall be in reasonably close conformity with the plans, specifications, and revisions, which have been approved by the designer of the approved project."

(2) "Technical advice or assistance, or both, provided by the secretary to an applicant pursuant to K.S.A. 75-5068(c), and amendments thereto, shall not be construed as an undertaking by the secretary of the duties of the applicant or the approved project's owner, or both, or the duties of any consultant, licensed professional engineer, or inspector hired by the applicant or the approved project's owner." (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5068; effective Oct. 31, 2003.)

36-40-6. Interest rate and servicing fees. If any of the financial assistance is required to be repaid under the terms of the financial assistance agreement, that portion of the financial assistance shall bear interest in accordance with the applicable financial assistance agreement, at a rate set by the secretary. This rate shall be consistent with the provisions of K.S.A. 10-1009, and amendments thereto. The financial assistance agreement may also establish fees for servicing the financial assistance. (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5068; effective Oct. 31, 2003.)

36-40-7. Repayment of financial assistance. (a) Debt service shall be paid in accordance with the terms and conditions of the financial assistance agreement.

(b) If any financial assistance is prepaid in whole or in part, the prepayment shall be made in accordance with the terms and conditions of the financial assistance agreement.

(c) If a recipient of monies from the fund subsequently receives federal reimbursement for the same costs of an approved project for which financial assistance was received, the recipient shall repay to the secretary those fund monies in an amount equal to the federal reimbursement received, within 30 days after receipt of the federal reimbursement. (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5068; effective Oct. 31, 2003.)

36-40-8. Approved project statements. (a) Each financial assistance recipient shall provide the secretary, when the approved project is opened to unrestricted travel, with the written statement of the recipient's licensed professional engineer indicating that, at the time of design, the

plans, specifications, and any authorized revisions for the approved project followed the then-existing generally recognized and prevailing engineering standards and were in compliance with the applicable federal and state laws and regulations.

(b) Each financial assistance recipient shall provide the secretary with the statement of the recipient's inspector indicating that the approved project was constructed in reasonable conformity with its plans, specifications, and any authorized revisions, at each of the following times:

(1) At the time when the approved project is opened to unrestricted travel; and

(2) at the time of the final acceptance. (Authorized by and implementing K.S.A. 2002 Supp. 75-5065; effective Oct. 31, 2003.)

36-40-9. Approved project costs; accounting requirement. Each financial assistance recipient shall maintain an accounting system that segregates and accumulates project costs for the approved project. Project costs may be reviewed or audited, or both, by the secretary at any time during the construction of the approved project and after completion of the approved project. (Authorized by K.S.A. 2002 Supp. 75-5065; implementing K.S.A. 2002 Supp. 75-5065 and 75-5068; effective Oct. 31, 2003.)

Article 41.—PUBLIC SAFETY COMMUNICATION SYSTEM REVOLVING FUND

36-41-1. Definitions. For the purposes of this article, the following words and phrases shall be defined as specified in this regulation: (a) "Access lease agreement" means a contract between the secretary and any one of the following that permits and confirms the purpose and terms of access to the department's communication system equipment and any other agreed-upon conditions:

(1) An authorized governmental entity;

(2) an authorized nongovernmental entity; or

(3) an authorized public safety agency.

(b) "Act" means K.S.A. 75-5073 through 75-5077, and amendments thereto.

(c) "Applicant" means any of the following:

(1) A governmental entity filing an application under the act with the secretary for an access lease agreement;

(2) a nongovernmental entity filing an application under the act with the secretary for an access lease agreement; or

(3) a public safety agency filing an application under the act with the secretary for an access lease agreement or an equipment lease agreement.

(d) "Authorized governmental entity" means a governmental entity whose application for an access lease agreement has been approved by the secretary. This term shall not include public safety agencies.

(e) "Authorized nongovernmental entity" means a nongovernmental entity whose application for an access lease agreement has been approved by the secretary.

(f) "Authorized public safety agency" means a public safety agency whose application for an access lease agreement or equipment lease agreement has been approved by the secretary.

(g) "Communication system equipment access" means the acquisition, construction, enhancement, installation, improvement, maintenance, repair, rehabilitation, relocation, security, or extension of any equipment necessary to use, implement, support, and maintain the department's communication system.

(h) "Equipment lease agreement" means a contract between an authorized public safety agency and the secretary that confirms the purpose and terms of the lease of communication system equipment from the department and any other agreed-upon conditions.

(i) "Prevailing rate" means the amount of money that the secretary determines shall be charged for the communication system equipment access sought by an authorized nongovernmental entity, as specified in an access lease agreement. (Authorized by K.S.A. 2004 Supp. 75-5076; implementing K.S.A. 2004 Supp. 75-5074; effective, T-36-2-18-05, Feb. 18, 2005; effective July 22, 2005.)

36-41-2. Application and supporting documents. (a) Any governmental entity, nongovernmental entity, or public safety agency may submit an application for an access lease agreement under the act to the secretary for consideration for approval at any time. Any public safety agency may submit an application for an equipment lease agreement under the act to the secretary for consideration for approval at any time.

(b) Each applicant shall submit the following application documents for the secretary's review and consideration for approval:

(1) A completed application for an access lease

agreement or an equipment lease agreement, on a form furnished by the department;

(2) a detailed statement that establishes the need for the requested access to communication system equipment or the leasing of communication system equipment;

(3) documentation that provides sufficient detail regarding the need for access to communication system equipment or the leasing of communication system equipment to enable the secretary to determine the following:

(A) The exact nature of the requested access or equipment, or both;

(B) the applicable estimated costs for the access or equipment, or both; and

(C) the proposed lease period; and

(4) financial information regarding the applicant's revenues and expenditures for the three calendar years immediately preceding the date of the application that establishes to the secretary's satisfaction that the applicant has the capability to satisfy its financial obligations under the requested lease agreement. (Authorized by K.S.A. 2004 Supp. 75-5076; implementing K.S.A. 2004 Supp. 75-5074; effective, T-36-2-18-05, Feb. 18, 2005; effective July 22, 2005.)

36-41-3. Access lease agreement and equipment lease agreement: restrictions and requirements. (a) No access lease agreement shall permit interference with or impair the existing use of the department's communication system equipment by any governmental entity, any nongovernmental entity, or any public safety agency.

(b) The initial term of each access lease agreement shall not exceed five years. An access lease agreement may be renewed by the secretary after its initial term for a maximum of four five-year periods.

(c) The rate charged to an authorized governmental entity or an authorized public safety agency for communication system equipment access and the rate charged to an authorized public safety agency for the lease of communication system equipment shall be the actual incremental costs of the administration, equipment, installation, and maintenance attributable to the specific lease activity, as determined by the secretary. The lease agreement shall specifically detail the actual incremental costs upon which the rate is based.

(d) The term of each equipment lease agreement shall not exceed the service life of the equipment or 10 years, whichever is less. (Authorized by K.S.A. 2004 Supp. 75-5076; implementing K.S.A. 2004 Supp. 75-5074; effective, T-36-2-18-05, Feb. 18, 2005; effective July 22, 2005.)

36-41-4. Interest rate and service fees. (a) Each equipment lease agreement payment shall include an interest component based on the amortized balance of the cost of the equipment, in accordance with the amortization schedule incorporated in the equipment lease agreement. The interest rate for each equipment lease agreement shall be the published rate in effect on the effective date of the agreement, as that rate is established and published by the secretary on the first day of each month. This rate shall be consistent with the provisions of K.S.A. 10-1009 and amendments thereto.

(b) Any access lease agreement with an authorized governmental entity or an authorized public safety agency and any equipment lease agreement with an authorized public safety agency may include fees for services provided by the department related to the applicable lease agreement, which shall be detailed in the agreement. (Authorized by K.S.A. 2004 Supp. 75-5076; implementing K.S.A. 2004 Supp. 75-5074; effective, T-36-2-18-05, Feb. 18, 2005; effective July 22, 2005.)

36-41-5. Prevailing rates. (a) The rate charged to any authorized nongovernmental entity pursuant to an access lease agreement shall be the prevailing rate in effect on the effective date of the access lease agreement. This rate may include fees determined reasonable by the secretary for services provided by the department related to the access lease agreement.

(b) The prevailing rate to be charged to an authorized nongovernmental entity for communication system equipment access shall be established for the access location sought by that entity for the communication system equipment access. The prevailing rate shall be calculated using the average of rates for similar access and any services related to the access charged by entities other than the entity seeking access and the department, within a 40-mile radius of the location for which access is sought. A good faith effort shall be made by the secretary to secure estimates for the service and access from at least three entities. If estimates from three entities can not be secured within the 40-mile radius, then the radius shall be expanded by the secretary in 10-mile increments

until three estimates are received. (Authorized by K.S.A. 2004 Supp. 75-5076; implementing K.S.A. 2004 Supp. 75-5074; effective, T-36-2-18-05, Feb. 18, 2005; effective July 22, 2005.)