

State of Kansas
Department of Transportation

Notice of Hearing on Proposed Administrative Regulations
K.A.R. 36-45-1 through 36-45-8, and 36-45-10

The Kansas Department of Transportation (KDOT) will conduct a public hearing at 2:00 p.m. Thursday, October 22, 2020. Those persons wanting to join the public hearing may do so by calling 1-866-620-7326 or 1-678-981-8305 (Conference Code 2244176893) at the time of the hearing (Voice/Hearing Impaired callers, please dial 711). The public hearing is being held to consider the adoption of proposed new KDOT Article 45 regulations 36-45-1, 36-45-2, 36-45-3, 36-45-4, 36-45-5, 36-45-6, 36-45-7, 36-45-8, and 36-45-10, regarding escort vehicle service providers, escort vehicle drivers, and escort vehicles. These regulations are being proposed as temporary regulations and as permanent regulations.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Bureau of Structures and Geotechnical Services, Attn: Bridge Evaluation Engineer, 700 SW Harrison Street, 13th Floor, Topeka, KS 66603 or by email to dominique.shannon@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Dominique Shannon at 785-296-3347 (voice/hearing impaired, please dial 711).

Copies of the proposed regulations and the economic impact statement for the proposed regulations can be viewed at the following website: http://www.ksdot.org/permit_links.asp

A summary of the proposed regulations and estimated economic impact follows: K.A.R. 36-45-1. Definitions contains terminology and definitions relevant to and used in K.A.R. 36-45-2 through 36-45-8 and K.A.R. 36-45-10. K.A.R. 36-45-2. Registration outlines the registration requirements and conditions for registering as an escort vehicle service provider (EVSP). K.A.R. 36-45-3. Insurance identifies requirements and conditions for EVSP insurance requirements. K.A.R. 36-45-4. Escort Vehicle Operator identifies requirements and conditions for being a qualified escort vehicle operator. K.A.R. 36-45-5 Escort Vehicle identifies the requirements and conditions for a vehicle to act as an escort vehicle. K.A.R. 36-45-6. Equipment identifies the required equipment an EVSP shall ensure is in each escort vehicle during operation. K.A.R. 36-45-7. Documentation for Permitted Route outlines additional requirements beyond registration,

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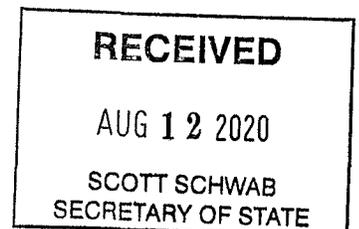
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insurance, operator, vehicle, and equipment requirements, such as trip planning, coordination, inspections, and route surveys. K.A.R. 36-45-8. Trip Procedures outlines trip procedures when the vehicle is actively escorting a load and when it is not actively escorting a load. K.A.R. 36-45-10. Determination of Registration Revocation or Denial; Registration Committee outlines the process for revoking or denying a registration as well as the procedures for appeal.

Economic Impact: The regulations are anticipated to have a minor economic impact on escort vehicle service providers and escort vehicle operators. An escort vehicle operator is required to successfully pass a training course as set forth in K.S.A. 8-1921. There are no anticipated economic impacts to the Kansas Department of Transportation. All upgrades to current websites were able to be completed under the existing contract for the implementation of K.S.A. 8-1921.

Julie L. Lorenz
Secretary



**Article 45. – Escort Vehicles, Escort Vehicle Service Providers,
and Escort Vehicle Operators**

36-45-1. Definitions. Each of the following terms, as used in this article of the department’s regulations, shall have the meaning specified in this regulation:

- (a) “Department” and “KDOT” mean the Kansas department of transportation.
- (b) “Escort vehicle” and “EV” mean a vehicle that accompanies a load and meets the requirements of K.A.R. 36-45-5.
- (c) “Escort vehicle operator” and “EVO” mean a person who is driving a vehicle that is accompanying a load and who meets the requirements of K.A.R. 36-45-4.
- (d) “Escort vehicle service provider” and “EVSP” mean a person, firm, owner, or company that operates an escort vehicle for the purpose of accompanying a load as required by K.A.R. 36-1-36 and K.A.R. 36-1-38 and that meet the requirements of K.A.R. 35-45-2 and K.A.R. 36-45-3.
- (e) “Escort vehicle service provider registrar” and “EVSP registrar” mean a department employee who makes the initial determination to revoke or deny any EVSP registration. The determination made by the EVSP registrar shall be deemed to be the decision of the secretary.
- (f) “Height-measuring pole” and “height pole” mean a retractable and flexible device made of nonconductive material that measures vertical clearance. A height pole shall be used when the height of the permitted load exceeds 16 feet when measured from the ground to the highest point on the load.

Each height-measuring pole shall meet the following requirements:

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(1) Be set at the height of the permitted load plus three inches;

(2) be securely attached to the EV and be designed and operated in a manner that will notify the EVO that the load cannot safely pass under an overhead obstruction without causing damage to the obstruction, the load, or both; and

(3) not interfere with the ability of the EVO to safely operate the EV and communication equipment.

(g) "Large structure" means any load that exceeds either 16 feet, six inches in width or 18 feet in height.

(h) "Law enforcement agency" means the Kansas highway patrol (KHP) or any local law enforcement agency in Kansas.

(i) "Load" means either of the following:

(1) At least one item, object, or device, including self-propelled, that exceeds the maximum sizes or weights prescribed in K.S.A. 8-1902, 8-1904, 8-1908, and 8-1909, and amendments thereto; or

(2) the combination of an item, object, or device and a vehicle transporting the item, object, or device if the combination of these two exceeds the maximum sizes or weights prescribed in K.S.A. 8-1902, 8-1904, 8-1908, and 8-1909, and amendments thereto.

(j) "MUTCD" means the most recent edition of the manual on uniform traffic-control devices for streets and highways issued by the federal highway administration and adopted by the secretary of transportation pursuant to K.S.A. 8-2003, and amendments thereto.

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(k) "Nondivisible," when used to describe a load or vehicle, means that the load or vehicle exceeds the applicable dimensions or weight limitations and, 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.

(l) "Permit" means a document issued by the secretary that grants the movement of a load or vehicle that exceeds the maximum sizes and weights as prescribed in K.S.A. 8-1902, 8-1904, 8-1908, and 8-1909, and amendments thereto, over the highways that are under the jurisdiction of the secretary.

(m) "Permitted route" means a designated course of travel that is over the highways under the jurisdiction of the secretary and has been approved by the secretary.

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

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

(1) A load or a vehicle transporting a nondivisible load that exceeds a gross weight of 150,000 pounds; or

(2) a load or a vehicle transporting a nondivisible load in which any group or groups of axles exceed the limitations prescribed in K.A.R. 36-1-37.

(p) "Traffic-control operation" means the temporary suspension of normal traffic activity at locations of limited maneuverability, including any bridge or intersection, for the purpose of allowing a load to safely traverse the area in accordance with the MUTCD.

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(q) "Vehicle" means any self-propelled device in, upon, or by which any person or property is or can be transported or drawn upon a public highway. The self-propelled device is designed to travel on at least four wheels in contact with the ground. This term shall not include electric personal assistive mobility devices, devices moved by human power or used exclusively upon stationary rails or tracks, devices propelled by electric power obtained from overhead trolley wires but not operated on rails, and motorized nonhighway devices. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-2. Registration. Each EVSP shall register annually with the secretary. Each registration shall meet the requirements of this regulation.

(a) Each registration shall specify the following:

- (1) The name and address of the EVSP;
- (2) the name and address of the registered agent for the EVSP;
- (3) the vehicle identification number (VIN) of each EV operated in Kansas; and
- (4) the license plate number of each EV operated in Kansas.

(b) Each registrant shall attest to the following under penalty of perjury and revocation of the registration:

(1) That each EV operated in Kansas maintains the required insurance specified in K.A.R. 36-45-3;

(2) that the vehicle registration of each EV operated in Kansas is current in a state or territory of the United States;

(3) that each EVO possesses a current driver's license issued by the state or jurisdiction in which the EVO resides and, when operating as an EVO, the EVO is operating within any restrictions on the driver's license;

(4) that each EVO has successfully completed an escort vehicle training course from one of the states accepted and approved by the secretary and listed on the department's web site;

(5) that each EVO has a driving history without any conviction of driving while impaired, driving reckless, or both within the previous 36 months; and

(6) that each EVO is authorized to operate an EV for the EVSP. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A.

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36-45-3. Insurance. (a) Each EVSP shall have in effect all motor vehicle liability insurance coverage required for each EV traveling pursuant to any EVSP registration approved under this article of the department's regulations on the date of EVSP registration. As a prerequisite for EVSP registration under K.A.R. 36-45-2, each EVSP shall maintain the minimum required insurance, self-insurance, or other financial security required by K.S.A. 40-3104, and amendments thereto, to cover any damage that could occur to any person or property, including highways and highway features, during movement of the load. Each insuring company shall be authorized to conduct business in Kansas.

(b) Each EVSP shall maintain the required insurance coverage for the duration of the EVSP registration and shall furnish proof of insurance upon demand by the department or any law enforcement agency.

(c) Failure to maintain the required insurance coverage throughout the duration of the EVSP registration shall result in revocation of the EVSP registration. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-4. Escort vehicle operator. Each EVO shall meet the following requirements before operating any EV in Kansas:

- (a) Have a driving history without any conviction of driving while impaired, driving reckless, or both within 36 months before operating any EV;
- (b) successfully complete an escort vehicle training course from one of the states accepted and approved by the secretary and listed on the department's web site;
- (c) be at least 18 years of age; and
- (d) possess a current driver's license issued by the state or jurisdiction in which the EVO resides. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-5. Escort vehicle. Each EVSP shall ensure that each EV that is registered to the EVSP and operated in Kansas meets the following requirements:

- (a) Meets all statutory requirements to operate legally on the highways;
 - (b) has at least two axles;
 - (c) is able to operate safely under the conditions found to exist upon any highway without endangering the safety of the traveling public and the persons involved in moving and escorting the load;
 - (d) does not exceed a gross vehicle weight rating of 16,000 pounds;
 - (e) has a clearly visible and current license plate attached to the rear of the EV at least 12 inches from the ground;
 - (f) has an unobstructed outside rear-view mirror on each side of the EV;
 - (g) has current registration in the state in which the EV is registered;
 - (h) has left and right signal lamps on the front and rear of the EV that are in operable condition;
 - (i) is equipped with a horn that is in operable condition and capable of emitting sound audible under normal conditions from a distance of at least 200 feet;
 - (j) is at least 60 inches wide and does not exceed 102 inches wide;
 - (k) has full visibility in all directions from the driver's side from within the vehicle;
- and
- (l) has a sign on the driver's side and the passenger's side of the EV displaying the name of the EVSP during movement of the load. The name of the EVSP shall visibly contrast with the background of the sign so that the name of the EVSP is easily visible. (Authorized by

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36-45-6. Equipment. Each EVSP shall ensure that each EV that is accompanying a load in Kansas has, at a minimum, the following equipment meeting the requirements specified in this regulation:

(a) Communication equipment: one two-way communication device capable of transmitting and receiving signals for at least ½ mile and compatible with the device used by the driver of the load and the device used by each EVO during movement of the load;

(b) emergency equipment: one full-size spare tire compatible with the EV to continue travel, one vehicle jack appropriate for the EV, one lug wrench, eight bidirectional reflective triangles, eight red light-emitting flares, three 18-inch cones that are orange in color, and one fire extinguisher having an underwriters’ laboratories rating of 5 B:C or more;

(c) handheld warning flags: two handheld flags that are red or orange in color and at least 24 inches square;

(d) height-measuring pole;

(e) paddle signs: at least one standard “Stop” paddle sign and one standard “Slow” paddle sign. Each paddle sign shall be at least 18 inches wide with letters at least six inches high and shall meet the requirements of the MUTCD;

(f) personal safety equipment: one high-visibility hard hat and one high-visibility vest or jacket that meet the requirements of the MUTCD;

(g) warning sign: one warning sign that states “OVERSIZE LOAD.” The letters shall be black on a yellow background and shall be at least eight inches high with a minimum brush stroke of 1.125 inches. The sign shall not obstruct the warning light or lights. The sign shall be at least five feet long and 12 inches high and shall be visible from a minimum distance of 500 feet;

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(h) warning light or lights: either one oscillating or rotating light or two flashing lights. Each warning light shall be amber in color, at least six inches in diameter, and fully visible from all directions from a minimum distance of 500 feet. The warning light or lights shall not be obstructed by the warning sign; and

(i) vehicle warning flags: two vehicle flags red or orange in color and at least 18 inches square. Each flag shall be capable of being placed on the driver's or passenger's side of the EV. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-7. Documentation for permitted route. (a) Pretrip requirements. Each designated EVO shall ensure and document that the requirements of this subsection are met before accompanying each load.

(1) Planning and coordination meeting. A planning and coordination meeting shall be held no more than seven days before accompanying a load. Each person who will be accompanying or moving the load shall attend the meeting. The meeting shall accomplish each of the following:

- (A) Designate one or more EVO to complete the pretrip and posttrip evaluation;
- (B) establish the communication equipment and hand signals used during movement of the load;
- (C) discuss the conditions and restrictions of the permitted route;
- (D) review the procedures and requirements of this article of the department's regulations for compliance; and
- (E) verify the type and dimensions of the load.

(2) Equipment inspections. Each EVO shall inspect the equipment to verify compliance with K.A.R. 36-45-6.

(3) Escort vehicle inspections. Each EVO shall inspect the EV for defects and verify that the EV meets the requirements of K.A.R. 36-45-5.

(b) Route survey. An EVO who will be accompanying the load shall conduct a survey of the permitted route no more than 14 days before accompanying the load.

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(c) Posttrip requirements. A designated EVO shall complete a posttrip evaluation at the conclusion of movement of the load within Kansas. Each posttrip evaluation shall document the following:

(1) Each incident in which any communication equipment was defective, blocked, or otherwise failed to properly function and resulted in property damage, personal injury, or both;

(2) any warnings, citations, and enforcement actions taken by any law enforcement agency, the identity of each law enforcement agency, and, if applicable, each accident report number and citation number;

(3) any issues with the equipment required by K.A.R. 36-45-6 resulting in property damage, personal injury, or both;

(4) any injuries to persons resulting from accompanying the load;

(5) any load incidents, including tipping, spilling, or breaking, and the time, date, and location of each load incident;

(6) any incidents involving property damage resulting from movement of the load, accompanying the load, or both, and the time, date, location, and the property damaged in the incident;

(7) any traffic-control operations that exceeded 15 minutes, and the time, date, location, and purpose of each traffic-control operation;

(8) any vehicle issues, including any signal lamp failure, brake failure, tire failure, and engine failure, if any failure resulted in property damage, bodily injury, or both; and

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(9) the identity of any additional persons or entities not identified in the pretrip evaluation that were utilized or contacted during the movement of the load for emergency purposes.

(d) Trip report. The trip report shall consist of each pretrip and posttrip evaluation. The EVSP shall retain each trip report for at least three years from the date of conclusion of movement of the load within Kansas. The EVSP shall submit a complete copy of the trip report to the department upon the department's request. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-8. Trip procedures. Each EVO shall follow the procedures specified in this regulation when accompanying a load in Kansas.

(a) Limitation of the EV. No EV shall carry any item, object, or device that meets any of the following conditions:

(1) Exceeds the maximum sizes and weights specified in K.S.A. 8-1902, 8-1904, 8-1908, and 8-1909, and amendments thereto;

(2) exceeds the width, length, or height of the EV, excluding the height pole and the required safety and visibility equipment;

(3) renders the EV unrecognizable as an EV by the traveling public;

(4) obstructs the view of the EVO, the driver of the load, or the view of the traveling public;

(5) poses a safety risk to the EVO, the driver of the load, or the traveling public; or

(6) restricts or impairs the EVO's ability to operate the EV or limits the EVO's ability to comply with this article of the department's regulations.

(b) Height-measuring pole. At least one EV preceding a load that exceeds a height of 16 feet shall have a height pole.

(c) Number of EVs required.

(1) Superloads. At least one front EV and one rear EV shall be required when accompanying a superload. If the permit requires the superload to slow down at bridges, an additional EV shall be required.

(2) Large structures. At least one front EV and one rear EV shall be required when accompanying a large structure.

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(3) Loads exceeding 14 feet in width. At least one front EV and one rear EV shall be required when accompanying a load exceeding 14 feet in width. The rear EV may be eliminated if all of the following conditions are met:

(A) A warning light is attached to the top of the load.

(B) A warning light is attached to the rear of the load no less than two feet but no more than eight feet above the surface of the road.

(C) A warning sign meeting the requirements of K.S.A. 8-1911(l)(1), and amendments thereto, is attached to the rear of the load.

(d) Load. No EV shall transport, push, or pull any portion of the load while accompanying the load.

(e) Permitted route. No EVO shall accompany the load on any roadway on which the load has not been authorized to travel.

(f) Restrictions. No EV shall tow a trailer during movement of the load.

(g) Traffic-control operations.

(1) Any EVO may conduct a traffic-control operation during the movement of the load for the purpose of accompanying the load, not to exceed 15 minutes. A traffic-control operation may be appropriate if any of the following conditions is met:

(A) A bridge or roadway is temporarily closed to allow the load to cross.

(B) An intersection with limited maneuverability is temporarily closed to allow the load to turn.

(C) The load or an EV malfunctions.

(D) An event makes load movement unsafe or impossible.

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(2) Each traffic-control operation shall be conducted from outside the EV using the equipment specified in K.A.R. 36-45-6(a), (c), (e), (f), and (h). Each traffic-control operation shall follow the procedures specified in the MUTCD.

(3) If a traffic-control operation is anticipated to last longer than 15 minutes, the law enforcement agency or the local area KDOT office shall be notified.

(h) Travel distance.

(1) Front EV and rear EV. Except as specified in paragraph (h)(2), the requirements of paragraph (h)(1) shall apply. When traveling within city limits, the EV immediately preceding the load shall not travel more than 300 feet to the front of the load. When traveling outside of city limits, the EV immediately preceding the load shall not travel more than 1,000 feet to the front of the load. The EV immediately following the load shall not travel more than 300 feet to the rear of the load.

(2) Visibility; temporary conditions. The load shall be visible to the EVs immediately preceding and following the load at all times unless temporary conditions, including blind curves, steep grades, upcoming bridges and overhead obstructions, and intersections requiring traffic-control operations, temporarily dictate a greater lead or follow distance than specified in this subsection.

(i) Trip communications. Each EVO shall communicate verbally using two-way communication equipment with the person transporting the load and with each EVO accompanying the load.

(j) Warning flags. A warning flag shall be securely attached to the driver's side of the EV and to the passenger's side of the EV.

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(k) Warning lights. The warning light or lights attached to the EV shall be activated during movement of the load and shall meet the requirements in K.A.R. 36-45-6(h).

(l) Warning signs.

(1) Front EV. Each EV preceding a load shall have a warning sign, as specified in K.A.R. 36-45-6(g), attached to the front or top of the EV and shall be visible to the traveling public preceding or approaching the EV.

(2) Rear EV. Each EV following a load shall have a warning sign, as specified in K.A.R. 36-45-6(g), attached to the top or rear of the EV and shall be visible to the traveling public approaching the load from the rear.

(m) Responsibilities when any EV is not accompanying a load. Each EVO shall meet all of the following requirements when the EV is being driven and not accompanying the load:

(1) The height pole shall be retracted or removed from the EV.

(2) The warning flags shall be removed from the EV.

(3) The warning light or lights attached to the EV shall be removed, deactivated, or covered.

(4) The warning sign attached to the EV shall be removed or covered. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911, K.S.A. 2019 Supp. 8-1921, and K.S.A. 66-1326; effective, T-_____, _____; effective P-_____.)

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36-45-10. Determination of registration revocation or denial; registration committee. The procedures specified in this regulation shall be followed for each determination to revoke or deny any EVSP registration.

(a) Determination of registration revocation or denial.

(1) The registration of an EVSP shall be revoked or denied by the EVSP registrar for failing to comply with any provision of this article of the department's regulations or any other applicable law.

(2) If the registration of an EVSP is revoked or denied by the EVSP registrar, the EVSP registrar shall provide written notice of the revocation or denial to the EVSP. Each notice of revocation or denial shall be sent by certified mail to the EVSP no more than 15 business days from the date the EVSP registrar revokes or denies the registration of the EVSP.

(b) Appeals of registration revocation or denial.

(1) Each EVSP whose EVSP registration is revoked or denied shall be entitled to an appeal if the EVSP files a written appeal with the EVSP registrar and the appeal is received by the EVSP registrar, either electronically or by U.S. mail, within 30 days of notification of the registration revocation or denial.

(2) Each appeal shall be filed on a form provided by the department. The appeal form for EVSP registration revocation or denial shall be available on the department's web site. Upon the request of the EVSP, the EVSP registrar shall provide a paper copy of the appeal form by certified mail.

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(3) If an EVSP files an appeal of a revocation of registration according to this regulation, the EVSP registration shall be valid, pending final determination of revocation by the EVSP registration committee.

(4) If an EVSP files an appeal of a denial of registration according to this regulation, the EVSP registration shall be deemed invalid, pending a final determination of the denial by the EVSP registration committee.

(5) If an EVSP fails to file an appeal according to this regulation, the revocation or denial determination by the EVSP registrar shall become final, upon expiration of the appeal period.

(c) Registration committee.

(1) A committee of at least three members shall be established by the secretary to act as an appellate body to hear and determine appeals concerning revocations and denials of EVSP registrations. The members of the registration committee shall be appointed by the secretary and shall serve at the pleasure of the secretary.

(2) The registration committee shall be chaired by the EVSP registrar. The EVSP registrar shall be a non-voting member of the committee.

(d) Decisions of registration committee.

(1) If an appeal is filed according to this regulation, the EVSP registration committee shall make a final determination to revoke, deny, or reinstate the EVSP registration.

(2) Pursuant to K.S.A. 77-601 et seq. and amendments thereto, the decisions of the registration committee shall not be subject to further administrative review by any officer or committee of the department.

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(3) If the registration committee determines that the EVSP registration of the appealing EVSP should not have been revoked or denied, the registration of the EVSP shall be reinstated, effective immediately.

(4) If the registration committee affirms the revocation of the EVSP registration of the appealing EVSP, the EVSP shall not register with the secretary for one year from the original date of the initial revocation made by the EVSP registrar.

(5) If the registration committee affirms the denial of the EVSP registration, the EVSP shall not register with the secretary until the EVSP remedies the cause or causes for the denial. (Authorized by K.S.A. 2019 Supp. 8-1921 and K.S.A. 68-404; implementing K.S.A. 2019 Supp. 8-1911 and K.S.A. 2019 Supp. 8-1921; effective, T-_____, _____; effective P-_____.)

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**Kansas Administrative Regulations
Permanent Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Transportation
Agency

Dominique Shannon
Agency Contact

785-296-3347
Contact Phone Number

K.A.R. 36-45-1 to K.A.R. 36-45-8 and K.A.R. 36-45-10 (P)
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

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

Due to the passage of Senate Substitute for House Bill 2225 by the 2019 Kansas Legislature, the Kansas Department of Transportation is proposing the promulgation of new rules and regulations relating to the registration of companies operating an escort vehicle service in this state as authorized by K.S.A. 8-1921 of the Uniform Act Regulating Traffic; Size, Weight and Load of Vehicles.

K.A.R. 36-45-1—This regulation contains terminology and definitions relevant to and used throughout the proposed regulations.

K.A.R. 36-45-2 -This regulation outlines the registration requirements and conditions for registering as an Escort Vehicle Service Provider (EVSP).

K.A.R. 36-45-3—This regulation identifies requirements and conditions for EVSP insurance requirements.

K.A.R. 36-45-4 – This regulation identifies requirements and conditions for being a qualified Escort Vehicle Operator (EVO).

K.A.R. 36-45-5 – This regulation identifies the requirements and conditions for a vehicle to act as an Escort Vehicle (EV).

K.A.R. 36-45-6 – This regulation identifies the required equipment an EVSP shall ensure is in each EV during operation.

K.A.R. 36-45-7 – This regulation outlines additional requirements beyond registration, insurance, operator, vehicle, and equipment requirements, such as trip planning, coordination, inspections, and route surveys.

K.A.R. 36-45-8 – This regulation outlines trip procedures when the vehicle is actively escorting a load and then it is not actively escorting a load.

K.A.R. 36-45-9 – Reserved, not submitted

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K.A.R. 36-45-10 – This regulation outlines the process for revoking or denying a registration as well as the hearing procedures for appeal.

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

These proposed rules and regulations are not mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program. Although not required, this approach is recommended by Federal Highway Administration through their published best practices manual and training.

The rules and regulations are similar to 11 states in the U.S. (Arizona, Colorado, Florida, Georgia, Minnesota, North Carolina, New York, Oklahoma, Utah, Virginia, and Washington), 2 of which are contiguous (Oklahoma and Colorado). In addition to having similar rules and regulations, many of the aforementioned states offer reciprocity of certification training between states.

The reciprocity between states allows multiple states' training mechanisms to be utilized by other states with similar rules and regulations. The requirement to register remains with each state, however states that have been deemed to have a qualified training mechanism by the Kansas Secretary of Transportation, of which the EVO has completed, will be allowed for certification.

III. Agency analysis specifically addressing following:

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

The rules and regulations will have minimal to no impact on business activities and growth. Any impact will be derived by the minimal training requirements, which have been designed to result in the least burden possible to businesses and operators.

The one tangible restriction would be to those entities that choose not to register in Kansas or choose not to pass a qualifying escort vehicle training course. Those entities would be restricted from operating in Kansas.

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

There will be no charge to register as an Escort Vehicle Service Provider (EVSP) with the secretary, which will limit direct economic impact on specific businesses in the EVSP industry. In addition, the reciprocity with other states with similar rules and regulations will limit direct impacts.

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One potential non-quantifiable impact will be the additional requirements for safety equipment. It is assumed that a majority of EVSPs currently operating have the required safety equipment. It is plausible that some of the providers will need to upgrade and/or attain new equipment to meet the requirements. The compliance costs in this case is assumed to be minimal.

An additional economic effect identified through stakeholder feedback was the 12,000-pound limit for gross vehicle weight which would require EVSPs to purchase new vehicles to meet the threshold. This requirement was adjusted to 16,000 pounds in the final regulations to accommodate this concern and eliminate the potential economic burden.

An adjustment was also made to the requirement for route surveys to be completed no more than seven days before escorting the load. This was identified as an economic impact due to the limited timeframe for trip coordination. The regulations have been adjusted to no more than 14 days to limit compliance costs on the industry.

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

Any business that provides escort vehicle services in the State of Kansas will be minimally affected by the rules and regulations, due to the requirement for the EVO to have successfully completed an escort vehicle training course and potential safety equipment purchase or upgrades. In addition, EVSPs that are not registered in Kansas will be unable to operate in Kansas.

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

The assurance that EVO's will have completed an escort vehicle training course and have all required safety equipment will aim to increase safety to the public, load movers, law enforcement, and highway workers. This will likely reduce incidents of property damage and bodily injury as a result of the proposed rules and regulations.

Industry input identified the following as benefits of the proposed rules and regulations:

- The rules will provide clear guidance to qualified EVO's as to what route to take and will clearly identify routes on which they are not authorized to operate.
- The rules and regulation provide clear guidance on the vehicle type required for EVSPs.
- The industry will not experience high insurance claims due to damage or down time due to unproductive route planning.
- The industry would have more qualified employees due to the training requirements.

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

The Secretary will not apply a fee for registering as a qualified EVSP which will eliminate any cost associated with the proposed rules and regulations.

In addition, as previously mentioned, the Kansas Secretary of Transportation has approved course from other states, therefore reducing the burden of going through the certification process in multiple states. Escort Vehicle Operators who are certified in

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another state will be able to use that certification in Kansas without being required to pass another certification course.

The modification of an existing 12,000-pound requirement to 16,000-pound gross vehicle weight minimizes compliance cost for the industry.

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

It is unlikely that KDOT will immediately experience an increase in costs to implement the online registration of EVSPs. However, KDOT may experience an insignificant (less than \$3 million) increase when it will decide to renew its contract with ProMiles in 2024. ProMiles is developing the online EVSP registration process within the existing online oversize and/or overweight permit application program K-TRIPS.

EVSPs and individuals registering with the secretary will not be assessed any registration fees. States offering escort vehicle training courses charge a fee ranging from \$100 to \$350 for the course. The certification is then valid for four to five years. After the initial timeframe, there is a recertification which costs \$100 to extend the certification for another four to five years. Stakeholders within the oversize and/or overweight load industry believe this is a small fee for both the proper training of EVO's and the public's safety.

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

YES NO

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

KDOT reviewed the contract with ProMiles. The cost agreement for Hosting and Maintenance includes enhancements to the software and website. The addition of the EVSP registration is considered an enhancement to the current website. Cost for enhancements is included in the contracted price that has been set through 2025.

KDOT considered foreseeable costs associated with the proposed rules and regulations. Public and industry input was included in the cost considerations. Input was requested from the industry through provision of the proposed rules and regulations and a request for responses to the following questions:

1. How the regulations will enhance or restrict business activity and growth.
2. The economic effect of implementation and compliance, including an estimate of costs incurred by or passed along to businesses, local governments, or members of the public.
3. How your business, entity, or those you represent may be directly affected.
4. Benefits of each regulation.

The rules and regulations were altered to offset costs associated with industry feedback.

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

YES NO

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

There are no foreseeable increases or decreases in revenue to cities, counties, or school districts due to the proposed rules and regulations. There are no foreseeable responsibilities being altered for those entities. Due to no foreseeable changes in revenue or responsibility, the League of Kansas Municipalities, Kansas Association of Counties, and Kansas Association of School Boards were not contacted.

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

KDOT has consulted the following entities requesting feedback on the rules and regulations:

- North American Pilot Vehicle Safety Alliance (NAPVSA)
- Kansas Motor Carriers Association (KMCA)
- Kansas Manufactured Housing Association (KMHA)
- Federal Highway Administration – Kansas Division (FHWA-KS)
- Kansas Corporation Commission (KCC)
- Kansas Highway Patrol (KHP)

These entities were provided a set of proposed rules and regulations by email and given the opportunity to comment during a 30-day period on the proposed rules and regulations. Their comments were incorporated into the final proposed rules and regulations when appropriate.

Input was requested from the industry through provision of the proposed rules and regulations and a request for responses to the following questions:

1. How the regulations will enhance or restrict business activity and growth.
2. The economic effect of implementation and compliance, including an estimate of costs incurred by or passed along to businesses, local governments, or members of the public.
3. How your business, entity, or those you represent may be directly affected.
4. Benefits of each regulation.

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

The proposed regulations are not environmental related. Thus, this section is inapplicable.

