

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Jay Scott Emler, Chairman
Shari Feist Albrecht, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

December 20, 2016

17-TRAM-242-PEN

Dale Westhoff, Vice President
Concrete Service Co., Inc.
PO Box 1205
Great Bend, Kansas 67530

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 1, 2016, by Kansas Corporation Commission Special Investigators Doug Handy and Greg Askren. For a full description of the penalty and process please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$1,600 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

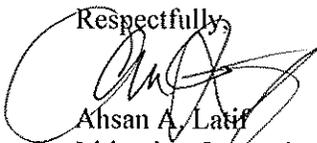
IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2015 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,



Ahsan A. Latif
Litigation Counsel
(785) 271-3118

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Jay Scott Emler, Chairman
 Shari Feist Albrecht
 Pat Apple

In the Matter of the Investigation of **Concrete**)
Service Co., Inc., of Great Bend, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 17-TRAM-242-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2015 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2015 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2015 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and order a hearing on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Concrete Service Co., Inc. (Concrete Service) operates USDOT number 977271.

5. Concrete Service is an interstate/intrastate carrier that has been in business since June 28, 1962. It operates 29 trucks with GVWR of 26,001 or more. It also operates four (4) truck tractors and has nine (9) semi-trailers with GVWR of 26,001 or more. Concrete Service employs 17 CDL drivers.

6. Concrete Service is a private motor carrier which primarily hauls concrete, rock and sand.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on November 1, 2016, Commission Staff (Staff) Special Investigators Doug Handy and Greg Askren conducted a compliance review of the operations of Concrete Service. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Handy and Mr. Askren identified four (4) violations of the Motor Carrier Safety Regulations.

- a. On August 16, 2016, Concrete Service required or permitted its driver, Joseph Barringer, to operate a CDL-required commercial motor vehicle, a 1999 Sterling, VIN ending in 4936, GVWR 56,000 lbs., in intrastate commerce from Hays, Kansas to Schoenchen, Kansas. This trip is

evidenced by an Hours Report, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, driver Joseph Barringer was not on a random alcohol/controlled substance list for selection. The driver was hired on July 19, 2016. His pre-employment test was conducted on July 18, 2016, with a negative result confirmed on July 20, 2016. The consortium selected drivers for the third quarter random controlled substance test on August 12, 2016. Mr. Barringer was not on that list, denying him an equal chance at being selected each time selections are made. The driver was involved in a one-vehicle fatality accident. The consortium pulled the fourth quarter controlled substance selection on November 1, 2016, with the carrier never having any record of the driver ever placed in the driver pool in the third quarter or no record of the same driver being removed from the selection pool after the fatality accident. Concrete Service's failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are made is in violation of 49 C.F.R. 382.305(i)(2), as adopted by K.A.R. 82-4-3c and authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- b. On May 5, 2016, Concrete Service required or permitted its driver, Michael Fabricius, to operate a CDL-required commercial motor vehicle, a 2003 International, VIN ending in 014179, GVWR 66,000 lbs., in intrastate commerce from Hays, Kansas to Quinter, Kansas. This trip is

evidenced by an Hours Report, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, Concrete Services failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. Concrete Service's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2015 Supp. 66-1,112. Staff recommends a fine of \$100.

- c. During the transportation described in paragraph b., above, Concrete Service failed to require its driver Michael Fabricius to be medically examined and certified as physically fit to operate a commercial motor vehicle during the preceding 24 months. The driver was hired on March 12, 2012. The driver qualification file indicated Mr. Fabricius' medical certification expired on November 24, 2014. He was not examined and recertified until May 17, 2016. Concrete Service's failure to confirm that each of its drivers are medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.45(b)(1) and 49 C.F.R. 391.51(b)(7)(i), as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine in the amount of \$250.

d. On June 3, 2016, Concrete Service required or permitted its driver, David Shadduck, to operate a CDL-required commercial motor vehicle, a 2003 International, VIN ending in 070372, GVWR 66,000 lbs., in intrastate commerce from Great Bend, Kansas to Pawnee Rock, Kansas. This trip is evidenced by an Hours Report, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, Concrete Service failed to have the commercial motor vehicle periodically (annually) inspected. The maintenance record for the 2003 International indicated it was placed into service on March 15, 2016. A periodic inspection was conducted on June 9, 2016. The vehicle was found in violation for no periodic inspection on June 7, 2016, during a Level 2 roadside inspection conducted by the Kansas Highway Patrol in Great Bend, Kansas. *See*, Driver/Vehicle Examination Report No. 92120933, a copy of which is attached hereto as Attachment "E" and is hereby incorporated by reference. Concrete Service's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Concrete Service committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the

Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$1,600 for four (4) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Concrete Service be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Concrete Service submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Concrete Service because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

13. The Commission finds Concrete Service committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Concrete Service Co., Inc., of Great Bend, Kansas is hereby assessed a \$1,600 civil penalty for four (4) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Concrete Service is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Concrete Service is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Concrete Service's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,600 civil penalty against Concrete Service, and ordering Concrete Service to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

F. Failure to pay the \$1,600 civil penalty within thirty (30) days of the service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Concrete Service's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: _____

Amy L. Green
Secretary to the Commission

AAL

ATTACHMENT "A"

Kansas Corporation Commission

	US DOT # 977271	Legal: CONCRETE SERVICE CO INC Operating (DBA):					
MC/MX #:		Federal Tax ID: [REDACTED] (EIN)					
Review Type: Compliance Review (CR)							
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.		Territory: F			
Operation Types Interstate Intrastate							
Carrier: HM HM Shipper: N/A N/A Cargo Tank: N/A		Business: Corporation Gross Revenue: [REDACTED] for year ending: 6/30/2016					
Company Physical Address: [REDACTED]							
Contact Name: Dale Westhoff Phone numbers: (1) [REDACTED] E-Mail Address: [REDACTED]							
Company Mailing Address: P O BOX 1205 GREAT BEND, KS 67530							
Carrier Classification Private Property							
Cargo Classification Other: concrete, rock, sand							
Hazardous Materials 9 Miscellaneous HM Carried Non-Bulk							
Equipment							
	Owned Term Leased Trip Leased			Owned Term Leased Trip Leased			
Truck	29	0	0	Truck Tractor	4	0	0
Trailer	9	0	0				
Power units used in the U.S.: 33 Percentage of time used in the U.S.: 100							
Does carrier transport placardable quantities of HM?				No			
Is an HM Permit required?				N/A			
Driver Information							
	Inter	Intra	Average trip leased drivers/month: 0				
< 100 Miles:		12	Total Drivers: 17				
>= 100 Miles:	5		CDL Drivers: 17				





CONCRETE SERVICE CO INC
U.S. DOT #: 977271

Review Date:
11/15/2016

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

1500 SW Arrowhead Rd.
Topeka, Ks. 66604-4027

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Dale Westhoff

Title: Vice- President

Name: [REDACTED]

Draft





CONCRETE SERVICE CO INC
U.S. DOT #: 977271

Review Date
11/15/2016

Part B Violations

1 FEDERAL ACUTE	Primary: 382.305	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
Description Failing to implement a random controlled substance and/or an alcohol testing program. Example Driver Name [REDACTED] Trip Date 11/18/2015 Ks. Roadside Insp. #KSHPO5160051 Carrier was in a consortium until 12/2014. Carrier reestablished a program on 03/01/2016 with Compliance Resource Group.					
2 FEDERAL	Primary: 382.305(i)(2)	Discovered 1	Checked 17	Drivers/Vehicles In Violation 1	Checked 17
Description Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made. Example Driver Name: [REDACTED] Trip Date 08/16/16 Hire Date 07/19/2016 Fatality Accident Report #2016011066 Ks. Post Accident Insp. KSHPO2510140 1999 Sterling VIN # [REDACTED] 49361 Driver was not listed on the 3rd Quarter or 4th Quarter Random Controlled Substance Testing List.					
3 STATE	Primary: 391.25(a)	Discovered 1	Checked 8	Drivers/Vehicles In Violation 1	Checked 8
Description Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months. Example Driver Name [REDACTED] Trip Date 05/05/2016 Hire Date 03/12/2012 Invoice #29110 Driver qualification file had MVR's obtained on 05/08/2014, 05/26/2016, and 11/01/2016. Carrier failed to obtain an MVR in 2015.					
4 STATE	Primary: 391.45(b)(1) Secondary: 391.11(a)	Discovered 1	Checked 8	Drivers/Vehicles In Violation 1	Checked 8
Description Using a driver not medically examined and certified during the preceding 24 months. Example Driver Name [REDACTED] Trip Date 05/05/2016 Hire Date 03/12/2012 Invoice #29110 Driver qualification file presented a Medical certification that expired on 11/27/2014. Driver was not medical examined and certified until 05/17/2016.					





CONCRETE SERVICE CO INC
U.S. DOT # 977271

Review Date:
11/15/2016

Part B Violations

5 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 6	Checked 8	Drivers/Vehicles In Violation 6	Checked 8
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Description
Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2)
Example
Driver Name [REDACTED]
Trip Date 05/05/2016
Hire Date 03/12/2012
Carrier failed to conduct annual reviews as required by the regulations

6 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 6	Checked 8	Drivers/Vehicles In Violation 6	Checked 8
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Description
Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27
Example
Driver Name [REDACTED]
Trip Date 05/05/2016
Hire Date 03/12/2012
Invoice #29110
Carrier failed to obtain a certification of violation from each driver as required annually.

7 STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 1	Checked 8	Drivers/Vehicles In Violation 1	Checked 8
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Description
Using a commercial motor vehicle not periodically inspected.
Example
Driver Name [REDACTED]
Trip Date 06/03/16
2003 Intl. VIN # [REDACTED] 070372
Carrier maintenance record indicated annual inspection was conducted on 06/09/2016. No other periodic inspections were available during this investigation. Record indicated put in service on 03/04/2016.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated 350,000		Number of Vehicle Inspected (CR): 0
Recordable Accidents 1		OOS Vehicle (MCMIS): 1
Recordable Accidents/Million Miles 2.86		Number of Vehicles Inspected (MCMIS): 4

Your proposed safety rating is : SATISFACTORY	Rating Factors	Acute	Critical
	Factor 1: S	0	0
	Factor 2: C	1	0
	Factor 3: S	0	0
	Factor 4: S	0	0
	Factor 5: S	0	0
	Factor 6: S	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report





Part B Requirements and/or Recommendations

1. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm
2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.
4. **VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Monitoring and Tracking**

DESCRIPTION OF PROCESS BREAKDOWN- Carrier operated a commercial motor vehicle without a periodic inspection.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.
- Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable.
- Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records.
- Monitor and track roadside inspection results to ensure that vehicle defects are repaired and documented promptly and to prevent Out-of-Service (OOS) vehicles from operating prior to being repaired.
- Monitor manufacturer recalls through <http://www.nhtsa.dot.gov> and consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance.
- Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Regularly evaluate the company's vehicle-maintenance-related inspection results via the Federal Motor Carrier Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
- Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.
- Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRs), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Passenger Carrier Only:

- Monitor manufacturer recalls through <http://www.nhtsa.dot.gov>; consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance, especially with regard to preowned buses.
- Monitor and track vehicle-maintenance-related passenger complaints and assess safety implications.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.





Part B Requirements and/or Recommendations

5. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN Carrier failed to maintain driver qualification files with updates annually as required by the regulations.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

6. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN- Carrier failed to maintain a random alcohol/controlled substance testing program. Failed to maintain current driver list for updated random pool.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours





Part B Requirements and/or Recommendations

- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

7. FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012.
- The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.
- Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.
- The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

8. For all Investigations:

- **Understand Why Compliance Saves Time and Money.** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- **Document and Follow Through on Action Plans.** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.





CONCRETE SERVICE CO INC
U.S. DOT #: 977271

Review Date
11/15/2016

Part B Requirements and/or Recommendations

NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

- NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information: <http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>

9. For all Investigations that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027

10. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.

11. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements and/or failure to comply with the Kansas Motor Carrier Safety Statutes and Regulations could result in suspension of Concrete Service Co. Inc. operating authority and/or the impoundment of Concrete Service Co., Inc. vehicles.

Dale Westhoff, Vice- President
Date

11/15/2016





CONCRETE SERVICE CO INC
U.S. DOT #: 977271

Review Date:
11/15/2016

Part B Requirements and/or Recommendations

Draft



ATTACHMENT "B"

Draft



Hours Only

Company: Concrete Service Co Inc.

From: 8/1/2016

To: 8/31/2016

- Fingerprint
- Edited
- Card based
- Password based
- Clock in By PC
- Telephone
- System
- Absent
- Sick
- Holiday
- Vacation
- Late Arrival / Early
- Iris
- USB

User ID: 140

Name: Barringer Joe

Location: Hays

Department: Drivers 2nd location

Pending review

Not reviewed by employee

Day	Time In	Time Out	Regular	OT	DT	OS	Breaks	BP	Total
Mon, Aug/8/2016	8:00 AM	5:03 PM	08.55	00.00	00.00	00.00	00.50	00.00	08.55
Tue, Aug/9/2016	7:44 AM	12:00 PM	04.27	00.00	00.00	00.00	00.00	00.00	
Tue, Aug/9/2016	12:30 PM	6:45 PM	06.25	00.00	00.00	00.00	00.50	00.00	10.52
Wed, Aug/10/2016	6:35 AM	12:00 PM	05.42	00.00	00.00	00.00	00.00	00.00	
Wed, Aug/10/2016	12:30 PM	6:37 PM	06.12	00.00	00.00	00.00	00.50	00.00	11.53
Thu, Aug/11/2016	7:00 AM	12:26 PM	05.43	00.00	00.00	00.00	00.00	00.00	
Thu, Aug/11/2016	12:50 PM	3:26 PM	02.50	00.00	00.00	00.00	00.50	00.00	07.93
Fri, Aug/12/2016	5:11 AM	12:50 PM	01.47	06.18	00.00	00.00	00.00	00.00	
Fri, Aug/12/2016	1:14 PM	3:21 PM	00.00	02.02	00.00	00.00	00.50	00.00	09.67
Mon, Aug/15/2016	7:33 AM	11:43 AM	04.17	00.00	00.00	00.00	00.00	00.00	
Mon, Aug/15/2016	7:33 AM	11:43 AM	04.17	00.00	00.00	00.00	00.00	00.00	
Tue, Aug/16/2016	6:03 AM	11:39 AM	05.60	00.00	00.00	00.00	00.00	00.00	
Tue, Aug/16/2016	12:09 PM	5:00 PM	04.85	00.00	00.00	00.00	00.50	00.00	10.45
Totals:			60.32	08.20	00.00	00.00	03.50	00.00	68.52
Grand Total:			60.32	08.20	00.00	00.00	03.50	00.00	68.52

ATTACHMENT "C"

Draft



Hours Only

Company: Concrete Service Co Inc.

From: 5/1/2016

To: 5/31/2016

- Fingerprint
- Edited
- Card based
- Password based
- Clock in By PC
- Telephone
- System
- Absent
- Sick
- Holiday
- Vacation
- Late Arrival / Early
- Iris
- USB

User ID: 348

Name: Fabricius Michael

Location: Hays

Department: Drivers 2nd location

Pending review

Not reviewed by employee

Day	Time In	Time Out	Regular	OT	DT	OS	Breaks	BP	Total
Mon, May/2/2016	7:24 AM	1:02 PM	05.63	00.00	00.00	00.00	00.00	00.00	05.63
Tue, May/3/2016	5:33 AM	12:00 PM	06.45	00.00	00.00	00.00	00.00	00.00	
Tue, May/3/2016	12:30 PM	7:20 PM	06.83	00.00	00.00	00.00	00.50	00.00	13.28
Wed, May/4/2016	7:20 AM	12:00 PM	04.67	00.00	00.00	00.00	00.00	00.00	
Wed, May/4/2016	12:30 PM	5:03 PM	04.55	00.00	00.00	00.00	00.50	00.00	09.22
Thu, May/5/2016	7:19 AM	12:00 PM	04.68	00.00	00.00	00.00	00.00	00.00	
Thu, May/5/2016	12:30 PM	6:46 PM	06.27	00.00	00.00	00.00	00.50	00.00	10.95
Fri, May/6/2016	6:15 AM	12:00 PM	00.92	04.83	00.00	00.00	00.00	00.00	
Fri, May/6/2016	12:30 PM	5:29 PM	00.00	04.98	00.00	00.00	00.50	00.00	10.73
Sat, May/7/2016	6:54 AM	12:59 PM	00.00	05.58	00.00	00.00	00.50	00.00	05.58
Tue, May/10/2016	8:39 AM	1:00 PM	04.35	00.00	00.00	00.00	00.00	00.00	04.35
Wed, May/11/2016	6:30 AM	12:00 PM	05.50	00.00	00.00	00.00	00.00	00.00	
Wed, May/11/2016	12:30 PM	5:19 PM	04.82	00.00	00.00	00.00	00.50	00.00	10.32
Thu, May/12/2016	5:51 AM	12:00 PM	06.15	00.00	00.00	00.00	00.00	00.00	
Thu, May/12/2016	12:30 PM	4:45 PM	04.25	00.00	00.00	00.00	00.50	00.00	10.40
Fri, May/13/2016	6:35 AM	12:00 PM	05.42	00.00	00.00	00.00	00.00	00.00	
Fri, May/13/2016	12:30 PM	5:59 PM	05.48	00.00	00.00	00.00	00.50	00.00	10.90
Sat, May/14/2016	6:24 AM	11:42 AM	04.03	01.27	00.00	00.00	00.00	00.00	05.30
Wed, May/18/2016	12:10 PM	6:04 PM	05.90	00.00	00.00	00.00	00.00	00.00	05.90
Thu, May/19/2016	6:28 AM	1:21 PM	06.88	00.00	00.00	00.00	00.00	00.00	
Thu, May/19/2016	4:08 PM	5:45 PM	01.62	00.00	00.00	00.00	02.78	00.00	08.50
Fri, May/20/2016	7:22 AM	1:00 PM	05.63	00.00	00.00	00.00	00.00	00.00	
Fri, May/20/2016	1:30 PM	4:47 PM	03.28	00.00	00.00	00.00	00.50	00.00	08.92
Sat, May/21/2016	6:00 AM	11:20 AM	05.33	00.00	00.00	00.00	00.00	00.00	05.33
Mon, May/23/2016	9:03 AM	1:00 PM	03.95	00.00	00.00	00.00	00.00	00.00	
Mon, May/23/2016	1:30 PM	4:21 PM	02.85	00.00	00.00	00.00	00.50	00.00	06.80

ATTACHMENT "D"



Hours Only

Company: Concrete Service Co Inc.

From: 6/1/2016

To: 6/30/2016

- Fingerprint
- Edited
- Card based
- Password based
- Clock in By PC
- Telephone
- System
- Absent
- Sick
- Holiday
- Vacation
- Late Arrival / Early
- Iris
- USB

User ID: 1334

Name: Shadduck David

Location: Great Bend

Department: Drivers

Pending review

Not reviewed by employee

Day	Time In	Time Out	Regular	OT	DT	OS	Breaks	BP	Total
Wed, Jun/1/2016	7:59 AM	12:28 PM	04.48	00.00	00.00	00.00	00.00	00.00	
Wed, Jun/1/2016	1:04 PM	5:25 PM	04.35	00.00	00.00	00.00	00.60	00.00	08.83
Thu, Jun/2/2016	7:58 AM	12:26 PM	04.47	00.00	00.00	00.00	00.00	00.00	
Thu, Jun/2/2016	1:01 PM	5:31 PM	04.50	00.00	00.00	00.00	00.58	00.00	08.97
Fri, Jun/3/2016	7:58 AM	12:00 PM	04.03	00.00	00.00	00.00	00.00	00.00	
Fri, Jun/3/2016	12:30 PM	5:29 PM	04.98	00.00	00.00	00.00	00.50	00.00	09.02
Mon, Jun/6/2016	6:50 AM	12:37 PM	05.78	00.00	00.00	00.00	00.00	00.00	
Mon, Jun/6/2016	1:12 PM	5:13 PM	04.02	00.00	00.00	00.00	00.58	00.00	09.80
Tue, Jun/7/2016	8:00 AM	12:01 PM	04.02	00.00	00.00	00.00	00.00	00.00	
Tue, Jun/7/2016	12:42 PM	3:59 PM	03.28	00.00	00.00	00.00	00.68	00.00	07.30
Wed, Jun/8/2016	8:00 AM	12:11 PM	04.18	00.00	00.00	00.00	00.00	00.00	
Wed, Jun/8/2016	12:46 PM	4:42 PM	03.93	00.00	00.00	00.00	00.58	00.00	08.12
Thu, Jun/9/2016	5:09 AM	12:00 PM	06.85	00.00	00.00	00.00	00.00	00.00	
Thu, Jun/9/2016	12:30 PM	6:35 PM	06.08	00.00	00.00	00.00	00.50	00.00	12.93
Fri, Jun/10/2016	5:04 AM	12:00 PM	01.85	05.08	00.00	00.00	00.00	00.00	
Fri, Jun/10/2016	12:30 PM	4:53 PM	00.00	04.38	00.00	00.00	00.50	00.00	11.32
Mon, Jun/13/2016	4:00 AM	12:00 PM	08.00	00.00	00.00	00.00	00.00	00.00	
Mon, Jun/13/2016	12:30 PM	3:19 PM	02.82	00.00	00.00	00.00	00.50	00.00	10.82
Tue, Jun/14/2016	4:00 AM	12:00 PM	08.00	00.00	00.00	00.00	00.00	00.00	
Tue, Jun/14/2016	12:30 PM	6:17 PM	05.78	00.00	00.00	00.00	00.50	00.00	13.78
Thu, Jun/16/2016	6:10 AM	12:00 PM	05.83	00.00	00.00	00.00	00.00	00.00	
Thu, Jun/16/2016	12:30 PM	2:22 PM	01.87	00.00	00.00	00.00	00.50	00.00	07.70
Fri, Jun/17/2016	5:56 AM	12:00 PM	06.07	00.00	00.00	00.00	00.00	00.00	
Fri, Jun/17/2016	12:30 PM	1:55 PM	01.42	00.00	00.00	00.00	00.50	00.00	07.48
Mon, Jun/20/2016	8:00 AM	11:56 AM	03.93	00.00	00.00	00.00	00.00	00.00	
Mon, Jun/20/2016	12:29 PM	5:31 PM	05.03	00.00	00.00	00.00	00.55	00.00	08.97

ATTACHMENT “E”

Draft

SAN

DRIVER/VEHICLE EXAMINATION REPORT

INSPECT 1 0 91



Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (786)296-7189 Fax: (786)296-2858

Report Number: KSHP92120933
Inspection Date: 06/07/2016
Start: 10:19 AM CT End: 10:42 AM CT
Inspection Level: II - Walk-Around Inspection
HM Inspection Type: None

CONCRETE SERVICE CO INC

GREAT BEND, KS, 67330
USDOT: 977271
MC/MX#:
State#:
Location: GREAT BEND
Highway: 2818, 10 ST
County: BARTON

Driver: SHADDUCK, DAVID E
License#:
State: KS
Date of Birth:
CoDriver:
License#:
State:
Date of Birth:
Milepost: Shipper: CARRIER
Origin: GREAT BEND KS Bill of Lading: NONE
Destination: GREAT BEND,KS Cargo: SAND

VEHICLE IDENTIFICATION

Table with columns: Unit, Type, Make, Year, State, Plate, Equipment ID, VIN, GVWR, CVSA #, Issued #, OOS Sticker

BRAKE ADJUSTMENTS No brake measurements required for level II or level III

VIOLATIONS

Table with columns: Section, Type, Uyt, OOS, Citation #, VerityCrash, Violations Discovered

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: Alcohol/Controlled Substance Check, Traffic Enforcement, Post Crash Inspection
Conducted by Local Jurisdiction, PASA Conducted Inspection, PBBT Inspection
X Size and Weight Enforcement, Drug Interdiction Search
eScreen Inspection

State Information:

CDL Verified: Y, No Connectivity: N, Officer recommend Civil Assess: N

DRIVER: This form is to be sent to the carrier identified on this report within 24 hours of receipt
MOTOR CARRIER CERTIFICATION: All defects identified on this report must be corrected or acknowledged PRIOR TO RE-DISPATCH, and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the Kansas Highway Patrol at the address listed at the top of this form. If no violations were discovered, you are not required to sign and return a copy.

NOTE: Challenges to violations may be submitted through the Federal Motor Carrier Safety Administration (FMCSA)'s Data Q Challenge process at https://dataqs.fmcsa.dot.gov
Signature Of Motor Carrier X [Signature] Title: [Signature] Date: 6/8/16

Report Prepared By: A. Boyle

Badge #: 9212

Copy Received By: DAVID SHADDUCK



X

[Signature]

X

[Signature]

977271 KS KSHP92120933

CERTIFICATE OF SERVICE

17-TRAM-242-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on _____.

DALE WESTHOFF, VICE PRESIDENT
CONCRETE SERVICE CO., INC.
PO BOX 1205
GREAT BEND, KS 67530
Fax: 620-793-9245
marcia@concreteserviceco.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

/s/ DeeAnn Shupe
DeeAnn Shupe

Draft