

**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 State Corporation )  
Commission of the State of Kansas Approving )  
the FY 2017 Uniform Penalty Assessments for )  
the Regulation of Motor Carriers and Persons ) Docket No. 16-TRAM-588-MIS  
Operating in Kansas Who Fail to Obey Any )  
Order, Decision or Regulation of the )  
Commission. )

**ORDER DESIGNATING GUIDANCE DOCUMENT  
AND APPROVING STAFF'S USE OF THE TRANSPORTATION DIVISION'S  
UNIFORM PENALTY ASSESSMENT TABLE**

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. Also pursuant to K.S.A. 2015 Supp. 66-1,142b, the Commission is authorized to assess a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations of such motor carrier statutes, regulations or Commission orders, and not more than \$5,000 for intentional violations of such motor carrier statutes, regulations or Commission orders.

4. 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.

5. Pursuant to K.S.A. 2015 Supp. 66-1,142c, the Commission has the authority to compromise the amount of any civil penalty.

6. Pursuant to K.S.A. 2015 Supp. 77-438, the Commission may issue a guidance document without following the procedures for the adoption of administrative rules and regulations. Such a guidance document may contain binding instructions to state agency staff members; however, a guidance document issued pursuant to K.S.A. 2015 Supp. 77-438 lacks the force of law.

## **II. BACKGROUND**

7. It is the goal of the Transportation Division and of the Commission to improve the safety of motor carriers in Kansas to the benefit of motor carriers and the motoring public. Civil penalties assessed for the violation of motor carrier statutes, regulations or Commission orders are focused on improving the safety of motor carrier operations.

8. The Transportation Division has compiled a schedule of fines, relevant to violations of Kansas Motor Carrier Safety Statutes and Regulations, which are incremental in a way designed to have a fair and appropriate financial impact on the motor carrier industry. In compiling the schedule of fines, the Transportation Division has considered the appropriateness of the penalty to the size of the business and the gravity of the violation.

9. The schedule of fines takes into consideration Commission practices with respect to assessing penalties for violations of Kansas Motor Carrier Safety Statutes and Regulations, the safety impact of each violation, the size of the motor carrier's business/operations and, where relevant, the number of drivers in violation and/or number of violations discovered.

10. The schedule of fines, titled the "Uniform Penalty Assessment Table," (Penalty Assessment Table) was designated as a guidance document and approved for use by Staff in recommending penalties for violations of the Kansas Motor Carrier Safety Statutes and Regulations in the Commission's Amended Order Designating Guidance Document and Approving Staff's Use of the Transportation Division's Uniform Penalty Assessment Table (Order) issued on July 14, 2015, in docket 16-TRAM-004-MIS.

11. Pursuant to the Commission's July 14, 2015 Amended Order, the Penalty Assessment Table shall be reviewed annually taking into consideration potential changes to motor carrier regulations and the motor carrier industry, no later than July 1 of each year.

### **III. STATEMENT OF FACTS**

12. In accordance with the Commission's July 14, 2015, Amended Order, the Transportation Division has reviewed the Penalty Assessment Table and has recommended appropriate updates in conformity with its goals of improving the safety of motor carriers while taking into consideration potential changes to motor carrier regulations and the motor carrier

industry. The updated FY 2017 Uniform Penalty Assessment Table is attached hereto and is incorporated by reference.

13. On June 21, 2016, Staff prepared a Report and Recommendation, recommending Commission approval of the Transportation Division's use of the updated Penalty Assessment Table. The Report and Recommendation is attached hereto and is incorporated by reference.

14. The updated Penalty Assessment Table continues to be intended for the Transportation Division's use in the administration of the laws with which it is charged, to facilitate and promote consistency and uniformity in the penalty assessment recommendations made and submitted to the Commission, and to provide assurance to motor carriers and the public of the foregoing.

15. Nothing in the updated Penalty Assessment Table is intended to control the conduct of the public; it shall function as a reference and guidance tool for the Transportation Division. Penalty assessments made and recommended by the Transportation Division are not binding on the Commission, and the Commission retains and shall have full authority and discretion regarding any penalty assessment in any final order made and issued.

### **III. STAFF'S RECOMMENDATIONS**

16. Based upon the available facts, Staff recommends the Commission designate the updated Penalty Assessment Table as a guidance document, replacing the Penalty Assessment Table approved as a guidance document in the Commission's July 14, 2015 Order, and approve the updated Penalty Assessment Table for use by Staff in recommending penalties for violations of Kansas Motor Carrier Safety Statutes and Regulations.

17. Additionally, Staff recommends the updated Penalty Assessment Table be posted to the Commission website, replacing the Penalty Assessment Table currently posted to the Commission website, in furtherance of agency transparency.

18. Finally, Staff recommends that the Penalty Assessment Table continue to be reviewed once annually taking into consideration potential changes to motor carrier regulations and the motor carrier industry, on or before July 1 of each year.

## **V. CONCLUSIONS OF LAW**

19. The Commission finds it has the authority to designate guidance documents pursuant to K.S.A. 2015 Supp. 77-438.

20. The Commission finds it has jurisdiction over the assessment of civil penalties for the violation of any statute, regulation or Commission order relevant to motor carrier laws.

21. The Commission finds that it retains the authority to exercise discretion in compromising civil penalties pursuant to K.S.A. 66-1,142c.

22. The Commission finds the updated and attached Penalty Assessment Table to be reasonable and appropriately tailored to accomplish the Commission's goal of improving the safety of motor carriers in Kansas while having a fair impact on the motor carrier industry.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. The Transportation Division's FY 2017 Uniform Penalty Assessment Table with updates is hereby designated as a guidance document and approved for use by Staff. Staff shall use the Penalty Assessment Table in recommending penalties for violations of Kansas Motor Carrier Safety Statutes and Regulations, except for when Staff believes a deviation from the Uniform Penalty Assessment Table is merited. If Staff believes such a deviation is merited, Staff

shall present the Uniform Penalty Assessment Table recommendation, and any alternative recommendation, to the Commission for consideration.


B. The Transportation Division's FY 2017 Uniform Penalty Assessment Table with updates shall be posted to the Commission's website, replacing the previously approved Penalty Assessment Table.

C. The Transportation Division's FY 2017 Uniform Penalty Assessment Table shall be reviewed annually taking into consideration potential changes to motor carrier regulations and the motor carrier industry, no later than July 1 of each year.

**BY THE COMMISSION IT IS SO ORDERED.**

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated:           AUG 18 2016          

  
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Amy L. Green  
Secretary to the Commission

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**REPORT AND RECOMMENDATION  
TRANSPORTATION DIVISION**

**TO:** Chairman Jay Scott Emler  
Commissioner Shari Feist Albrecht  
Commissioner Pat Apple

**FROM:** Mike Hoeme, Director of Transportation

**DATE:** August 9, 2016

**DATE SUBMITTED TO LEGAL:** August 2, 2016

**DATE SUBMITTED TO COMMISSIONERS:** August 9, 2016

**SUBJECT:** Adoption of the Updated Transportation Division Fine Schedule

**EXECUTIVE SUMMARY:**

The Transportation Division has updated a previously approved schedule of fines, pursuant to K.S.A. 2015 Supp. 66-1,142b, relevant to violations of Kansas Motor Carrier Safety Statutes and Regulations. These fines are tailored to reflect the severity of the safety concerns of each violation and are crafted to address the size of the company to reduce the burden on small businesses in Kansas. The Division seeks formal approval of the updated fine schedule by the Commission, and intends to present this Report and Recommendation at Commission meeting on June 30, 2016.

**BACKGROUND:**

K.S.A. 2015 Supp. 66-1,142b gives the Commission the authority to assess civil penalties for the violation of any statute, regulation or Commission order relevant to motor carrier laws.

Subsection (a) states any person violating such motor carrier statutes, regulations or Commission orders shall be subject to a civil penalty of not less than \$100 and not more than \$1,000 for negligent violations and not more than \$5,000 for intentional violations.

Keeping in mind Commission practices with respect to assessing penalties for violations of Kansas Motor Carrier Safety Statutes and Regulations, as well as the appropriateness of the penalty to the size of the business and the gravity of the violation, the Transportation Division compiled a schedule of fines incremental in a way designed to have a fair and appropriate financial impact on the motor carrier industry.

On July 14, 2015, the Commission approved a fine schedule, titled "Uniform Penalty Assessment

Table," and ordered the fine schedule to be reviewed annually, no later than July 1. The Transportation Division has reviewed the previously approved fine schedule, and has made several appropriate updates in conformity with its goal to improve the safety of motor carrier operations.

### **ANALYSIS:**

The fine schedule is broken down by K.A.R. section and corresponding C.F.R. Part. The attached Uniform Penalty Assessment Table sets forth fine amounts taking into consideration factors such as company size/number of drivers and number of violations. The fines are incremental in a way designed to have a fair and appropriate impact on the motor carrier industry.

UCR fees, as set forth in 49 C.F.R. 367.30, are required to be paid by interstate motor carriers pursuant to K.A.R. 82-4-30a. This penalty has been scaled in such a way that the fine increases as the number of vehicles in violation increases.

49 C.F.R. Part 382, as adopted by K.A.R. 82-4-3c, deals with controlled substances and alcohol use and testing. Because the threat of drug/alcohol abuse is a severe safety concern, many of these fines begin at \$350. All of the fines in this category are broken out by the number of drivers within the company. This structure reduces the severity of a single violation by owner/operators.

49 C.F.R. Part 385, as adopted by K.A.R. 82-4-3d, deals with safety and fitness procedures. The only violation in this category relates to Haz-Mat Safety Permits. This is an area directly related to the safety of motor carriers as well as the motoring public, therefore the fine is a flat, per-carrier violation and it is consistent across all motor carriers, regardless of size.

49 C.F.R. Part 387, as adopted by K.A.R. 82-4-3n, deals with minimum levels of insurance for both property and passenger carrying motor carriers. The only violation in this category relates to failure to carry interstate insurance. This is an area directly related to the safety and protection of motor carriers as well as the motoring public, therefore the fine is a flat, per-carrier violation and it is consistent across motor carriers, regardless of size.

49 C.F.R. Part 390, as adopted by K.A.R. 82-4-3f, deals with general motor carrier safety regulations, and again these violations directly impact the safety of the motor carrier and motoring public. Fines for violations of this part are broken out by number of violations.

49 C.F.R. Part 391, as adopted by K.A.R. 82-4-3g, deals with driver qualifications. This area is still critical to safe motor carrier operations; however the impact on safety is somewhat less direct. Therefore these fines begin at a lower amount than the general motor carrier safety regulations, and are adjusted upward as the number of drivers in violation increases.

49 C.F.R. Part 392, as adopted by K.A.R. 82-4-3h, deals with driving a commercial motor vehicle and fines for violations of this part are broken out by number of violations. Violations of this part directly affect highway wear and tear, and fine amounts reflect this consideration.

49 C.F.R. Part 395, as adopted by K.A.R. 82-4-3a, deals with hours of service and fines for violations of this part are broken out by number of violations. Violations of this part directly affect the safety of the motoring public, and fine amounts reflect this consideration.



49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j, deals with inspection, repair and maintenance of vehicles. Violations of this part directly affect the safety of the motoring public, and fine amounts reflect this consideration. Violation of this part is broken out by the number of violations.

49 C.F.R. Parts 100 through 185, as adopted by K.A.R. 82-4-20, deal with transportation of hazardous material, and fines for violations of these parts and regulation are broken out by number of violations. Violations of this part are a serious concern for the safety of the motoring public, and fine amounts reflect this consideration.

**Proposed Updates:** The following are proposed updates made to the previously approved Uniform Penalty Assessment Table which reflects changes in the motor carrier industry and/or the motor carrier safety regulations:

1. 49 C.F.R. Part 382, as adopted by K.A.R. 82-4-3c, has includes several changes:
  - a. A reduced the standard civil penalty for violations committed by carriers under the 1 or 2 to 5 CDL Drivers in this part.
    - i. Violations of 49 C.F.R. 382.115 (Failure to Implement Testing Programs) now carry a standard civil penalty of \$350.00 for 1 CDL driver and \$650.00 for 2-5 CDL drivers.
    - ii. Violations of 49 C.F.R. 382.301 (No Pre-Employment Test) now carry a standard civil penalty of \$250.00 for 1 CDL driver and \$650.00 for 2-5 CDL drivers.
    - iii. Violations of 49 C.F.R. 382.303 (Failure to Conduct Post Accident Testing) now carry a standard civil penalty of \$250.00 for 1 CDL driver and \$650.00 for 2-5 CDL drivers.
    - iv. Violations of 49 C.F.R. 382.305 (Failure to Conduct Random Testing) now carry a standard civil penalty of \$250.00 for 1 CDL driver and \$650.00 for 2-5 CDL drivers.
    - v. Violations of 49 C.F.R. 382.401 (Failure to Retain Records) now carry a standard civil penalty of \$100.00 for 1 CDL driver and \$250.00 for 2-5 CDL drivers.
    - vi. Violations of 49 C.F.R. 382.601 (Failure to Distribute Drug/Alcohol Policy) now carry a standard civil penalty of \$250.00 for 2-5 CDL drivers.
    - vii. All enhanced civil penalties for these violations are double the standard civil penalty.
  - b. A new, specific penalty for 49 C.F.R. 382.305(i)(2) has been added, penalizing motor carriers who do not remove a driver from the pool of potential drivers to be drug tested. This was previously penalized under the fee structure for 49 C.F.R. 382.305, but it was determined that a failure to ensure equal testing should be subject to a reduced penalty when compared to the more egregious violation of failing to place new drivers in the pool of tested drivers. There will be no civil penalty for the first violation of this regulation, but information about the violation will appear on the penalty order. Failure to correct the issue within twenty-four months would subject the carrier to a \$100 enhanced civil penalty.

2. 49 C.F.R. Part 386, as adopted by K.A.R. 82-4-3o, is a new penalty dealing with motor carriers that operate while under an active out of service order from the FMCSA or the KCC. Carriers that operate a chameleon carrier in order to avoid an out of service order are included pursuant to 49 C.F.R. 386.73. Carriers that operate while under a federal out of service are included pursuant to 49 C.F.R. 386.83. Carriers that operate while under an out of service order issued by the state of Kansas are included pursuant to K.S.A. 66-1,129(a). The standard penalty for the first violation of operating while under an active out of service order is \$2,000 penalty while repeated violations would result in a \$4,000 penalty.
3. 49 C.F.R. Part 391, as adopted by K.A.R. 82-4-3g, has amended the citation referred to for failing to obtain a motor vehicle record (391.25) to include references to 49 C.F.R. 391.23 and 49 C.F.R. 391.51(b)(4). No amendments to the actual fine amounts are being recommended.
4. 49 C.F.R. Part 392, as adopted by K.A.R. 82-4-3h, has added a penalty for unsafe driving/speeding as well as a penalty for unsafe driving due to texting or mobile phone use. Each violation carries a fine structure identical to violations of 392.2 (Size & Weight).
5. 49 C.F.R. Part 395, as adopted by K.A.R. 82-4-3a, has added a separate "Total Hours" penalty for carriers who improperly keep time records under the "short haul" exemption. Violations of 49 C.F.R. 395.1(e) carry the following standard civil penalties: for 1-10 violations \$100.00; for 11-20 violations \$200.00; for 21-30 violations \$300.00; and for 31+ violations \$400.00. Enhanced penalties will be double the standard civil penalty. This new penalty allows the penalty matrix to separate part time drivers and smaller business from the more strict penalty structure in place to regulate larger carriers. Additionally, the number of violations that incur a higher penalty has been altered. Previously, the penalty matrix grouped violations as: 1-3; 4-15; 16-30 and 31+. The updated penalty matrix groups violations as follows: 1-10; 11-20; 21-30; 31+.
6. 49 C.F.R. Part 396, as adopted by K.A.R. 82-4-3j, has reduced the standard civil penalty for 1 violation of 49 C.F.R. 396.3 (Inspection, Repair and Maintenance) from \$500.00 to \$350.00 and 1 violation of 49 C.F.R. 396.17 (Periodic Inspection) from \$350.00 to \$250.00. This change was made to reduce the severity of fines levied against small businesses with a single commercial motor vehicle.
7. The Uniform Penalty Assessment Table stipulates that repeat violations of enhanced civil penalties receive a recommendation for the maximum civil penalty allowable under Kansas law. The current limit for the evaluation of repeat violations of enhanced civil penalties is being extended from eighteen months to twenty-four months from the date the enhanced penalty was issued. This is to allow our staff adequate time to conduct follow-up compliance reviews on motor carriers who originally received an enhanced penalty.

**RECOMMENDATION:**

Transportation Staff recommends the attached updated fine schedule be adopted, replacing the previously approved fine schedule, and posted to the Commission website. The schedule shall be reviewed once annually on or before July 1 of each year.

# **Uniform Penalty Assessment Table**

**Kansas Corporation Commission Transportation Division**

**FY 2017**

# Violations Re: Adoption of 49 C.F.R. Part 367 as adopted in K.A.R. 82-4-30a

(Unified Carrier Registration)

Regulation / Statute	Standard					Enhanced / Repeat Violations
49 C.F.R. § 367.30	1 – 5 Vehicles	6 – 20 Vehicles	21-100 Vehicles	101-1000 Vehicles	1000+ Vehicles	<ol style="list-style-type: none"> <li>1. Repeat violations of a standard penalty occurring within three years from the date the standard penalty was issued receive a recommendation for an enhanced civil penalty equal to 2X the amount of the standard civil penalty.</li> <li>2. Repeat violations of an enhanced civil penalty occurring within three years from the date the enhanced penalty was issued receive a recommendation for an enhanced civil penalty equal to 2X the amount of the previously issued enhanced civil penalty. The maximum repeat enhanced civil penalty violation that may be recommended against a Respondent is \$5,000.00. See K.S.A. 2014 Supp. 66-1,142b.</li> </ol>
	\$300.00	\$500.00	\$700.00	\$900.00	\$1,000.00	

# Violations Re: Adoption of 49 C.F.R. Part 382 as adopted in K.A.R. 82-4-3c

(Controlled Substance and Alcohol Use and Testing Violations)

Regulation / Statute	Standard Civil Penalty <sup>1</sup>			Enhanced Civil Penalty <sup>2</sup>		
	1 CDL Driver	2-5 CDL Drivers	6+ CDL Drivers	1 CDL Driver	2-5 CDL Drivers	6+ CDL Drivers
49 C.F.R. § 382.115 Failure to Implement Testing Programs	\$350.00	\$650.00	\$1,000.00	\$700.00	\$1,300.00	\$2,000.00
49 C.F.R. § 382.215 Positive Controlled Substance Test	N/A	N/A	N/A	\$2,000.00	\$3,500.00	\$5,000.00
49 C.F.R. § 382.301 No Pre-Employment Test	\$250.00	\$650.00	\$1,000.00	\$500.00	\$1,300.00	\$2,000.00
49 C.F.R. § 382.303 Failure to Conduct Post-Accident Testing	\$250.00	\$650.00	\$1,000.00	\$500.00	\$1,300.00	\$2,000.00
49 C.F.R. § 382.305 Failure to Conduct Random Testing	\$250.00	\$650.00	\$1,000.00	\$500.00	\$1,300.00	\$2,000.00
49 C.F.R. § 382.305(i)(2) Failure Remove From Pool	N/A	N/A	N/A	\$100.00	\$100.00	\$100.00
49 C.F.R. § 382.401 Failure to Retain Records	\$100.00	\$250.00	\$500.00	N/A	N/A	N/A
49 C.F.R. § 382.601 Failure to Distribute Drug/Alcohol Policy	\$100.00	\$250.00	\$500.00	N/A	N/A	N/A
49 C.F.R. § 382.603 Failure to Conduct Supervisor Training	N/A (if not owner/operator)	\$100.00	\$100.00	N/A	\$200.00	\$200.00
<b>Repeated Violations of Enhanced Civil Penalty</b>	Repeat violations of an enhanced civil penalty occurring within twenty-four months from the date the enhanced penalty was issued against the Respondent receive a recommendation for the maximum civil penalty allowable under Kansas law; <b>currently \$5,000.00</b> . See K.S.A. 2014 Supp. 65-1,142b(a).					

Maximum cumulative penalties: \$1,000 (1 CDL Driver); \$1,500 (2-5 CDL Drivers); \$2,000 (6+ CDL Drivers)

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the respondent.

# Violations Re: Adoption of 49 C.F.R. Part 385 as adopted in K.A.R. 82-4-3d

(Safety Fitness Procedures Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	First Violation			Repeat Violation		
49 C.F.R. § 385.403 HM Safety Permit	\$500.00			\$1,000.00		
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives a civil penalty recommendation equal to 2X the amount of an enhanced civil penalty.					

<sup>1</sup> Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Adoption of 49 C.F.R. Part 386 as adopted in K.A.R. 82-4-30

(Out of Service Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>2</sup>		
	First Violation			Repeat Violation		
<b>49 C.F.R. 386.73</b> Operating as Chameleon Carrier	\$2,000.00			\$4,000.00		
<b>49 C.F.R. 386.83</b> Operating Under Federal OOS	\$2,000.00			\$4,000.00		
<b>K.S.A. 66-1,129(a)</b> Operating Under KCC OOS	\$2,000.00			\$4,000.00		
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives a civil penalty recommendation equal to 2X the amount of an enhanced civil penalty.					

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Adoption of 49 C.F.R. Part 387 as adopted in K.A.R. 82-4-3n

(Interstate Insurance Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty		
	First Violation			Repeat Violation		
49 C.F.R. § 387.7; § 387.31 Interstate Insurance	\$500.00			\$1,000.00		
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives a civil penalty recommendation equal to 2X the amount of an enhanced civil penalty					



# Violations Re: Adoption of 49 C.F.R. Part 390 as adopted in K.A.R. 82-4-3f

(General Motor Carrier Safety Regulation Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	1-15 Violations	16-30 Violations	31+ Violations	1-15 Violations	16-30 Violations	31+ Violations
<b>49 C.F.R. § 390.13</b> Aiding & Abetting	N/A	N/A	N/A	\$2,000.00	\$2,500.00	\$3,000.00
<b>49 C.F.R. § 390.23</b> Relief From Regulation Emergency	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
<b>49 C.F.R. § 390.31</b> Copies or Records of Documents	\$200.00	\$300.00	\$500.00	\$400.00	\$600.00	\$1,000.00
<b>49 C.F.R. § 390.33</b> Using a CMV For Purposes Other Than Defined	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
<b>49 C.F.R. § 390.35</b> Fraudulent Certificates, Reports & Records	N/A	N/A	N/A	\$2,000.00	\$2,500.00	\$3,000.00
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives an enhanced civil penalty recommendation equal to 2X the amount that would be recommended against the Respondent, or if such a penalty would exceed the maximum civil penalty allowable by law, then the penalty recommended shall be the maximum civil penalty allowable by Kansas law; <b>currently \$5,000.00</b> . See K.S.A. 2014 Supp. 66-1,142b(a).					

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Adoption of 49 C.F.R. Part 391 as adopted in K.A.R. 82-4-3g

(Qualification of Drivers Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	1 Violation	2-10 Violations	11+ Violations	1 Violations	2-10 Violations	11+ Violations
49 C.F.R. § 391.11 Qualification of Drivers	\$250.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$2,000.00
49 C.F.R. § 391.15 Disqualified Drivers	\$250.00	N/A	N/A	\$500.00	N/A	N/A
49 C.F.R. § 391.25 49 C.F.R. § 391.23 49 C.F.R. § 391.51(b)(4) MVR	\$100.00	\$250.00	\$500.00	\$200.00	\$500.00	\$1,000.00
49 C.F.R. § 391.41 Physical Qualifications	\$250.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$2,000.00
49 C.F.R. § 391.43 Medical Certification	\$250.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$2,000.00
49 C.F.R. § 391.45(b)(1) Medical Examination	\$250.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$2,000.00
49 C.F.R. § 391.51(a) Driver Qualification File	\$350.00	\$750.00	\$1,000.00	\$700.00	\$1,500.00	\$2,000.00
49 C.F.R. § 391.51(b)(3) Road Test	N/A (1 driver)	\$100.00 (2-5 drivers)	\$250.00 (6+ drivers)	N/A (1 driver)	\$200.00 (2-5 drivers)	\$500.00 (6+ drivers)
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives an enhanced civil penalty recommendation equal to 2X the amount that would be recommended against the Respondent, or if such a penalty would exceed the maximum civil penalty allowable by law, then the penalty recommended shall be the maximum civil penalty allowable by Kansas law; <b>currently \$5,000.00</b> . See K.S.A. 2014 Supp. 66-1,142b(a).					

<sup>1</sup> Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Adoption of 49 C.F.R. Part 392 as adopted in K.A.R. 82-4-3h

(Driving of Commercial Motor Vehicle Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	1-5 Violations	6-15 Violations	16+ Violations	1-5 Violations	6-15 Violations	16+ Violations
<b>49 C.F.R. § 392.2</b> K.S.A. 8-1901 Size & Weight	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
<b>49 C.F.R. § 392.2</b> K.S.A. 8-2,125 CDL	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.2</b> K.S.A. 66-1,111-PuMC K.S.A. 66-1330-W K.S.A. 66-1,112g-PrM	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.2</b> K.S.A. 8-109 Oversize Permit; K.S.A. 8-142 Registration	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.2</b> Unsafe Driving Speeding	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.2</b> Unsafe Driving Texting/Mobile Phone Use	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.2</b> K.S.A. 66-1,128 Insurance	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
<b>49 C.F.R. § 392.9a</b> Federal Operating Authority	\$1,000.00	N/A	N/A	\$2,000.00	N/A	N/A

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

Repeated Violations of  
Enhanced Civil Penalty

A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives an enhanced civil penalty recommendation equal to 2X the amount that would be recommended against the Respondent, or if such a penalty would exceed the maximum civil penalty allowable by law, then the penalty recommended shall be the maximum civil penalty allowable by Kansas law; **currently \$5,000.00**. See K.S.A. 2014 Supp. 66-1,142b(a).

# Violations Re: Adoption of 49 C.F.R. Part 395 as adopted in K.A.R. 82-4-3a

(Hours of Service of Drivers Violations)

Regulation / Statute	Standard Civil Penalty				Enhanced Civil Penalty <sup>1</sup>			
	1-10 Violations	11-20 Violations	21-30 Violations	31+ Violations	1-10 Violations	11-20 Violations	21-30 Violations	31+ Violations
49 C.F.R. § 395.1(e) Total Hours	\$100.00	\$200.00	\$300.00	\$400.00	\$200.00	\$400.00	\$600.00	\$800.00
49 C.F.R. § 395.3 Maximum Driving Time (Property)	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 395.3(a)(3) Rest Breaks	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 395.5 Maximum Driving Time (Passenger)	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 395.8 Record of Duty Status	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 395.8(e) False Reports	N/A	N/A	N/A	N/A	\$1,000.00	\$2,000.00	\$2,500.00	\$3,000.00
49 C.F.R. § 395.8(k) Supporting Documentation	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 395.13 Driver's Declared OOS	\$250.00	\$500.00	\$750.00	\$1,000.00	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00
<b>Repeated Violations of Enhanced Civil Penalty</b>	Repeat violations of an enhanced civil penalty occurring within twenty-four months from the date the enhanced penalty was issued against the Respondent receives a recommendation for the maximum civil penalty allowable by Kansas law; currently \$5,000.00. See K.S.A. 2014 Supp. 66-1,142b(a).							

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Adoption of 49 C.F.R. Part 396 as adopted in K.A.R. 82-4-3j

(Inspection, Repair and Maintenance Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	1 Violation	2-15 Violations	16+ Violations	1 Violation	2-15 Violations	16+ Violations
49 C.F.R. § 396.3 Inspection, Repair, and Maintenance	\$350.00	\$750.00	\$1,000.00	\$700.00	\$1,500.00	\$2,000.00
49 C.F.R. § 396.7 Unsafe Operations Forbidden	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 396.9 Motor Vehicles Declared OOS	N/A	N/A	N/A	\$3,000.00	N/A	N/A
49 C.F.R. § 396.11 Driver Vehicle Inspection Report	\$200.00	\$300.00	\$500.00	\$400.00	\$600.00	\$1,000.00
49 C.F.R. § 396.17 Periodic Inspection	\$250.00	\$750.00	\$1,000.00	\$500.00	\$1,500.00	\$2,000.00
49 C.F.R. § 396.19(a) Inspector Qualifications	\$250.00	N/A	N/A	\$500.00	N/A	N/A
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives an enhanced civil penalty recommendation equal to 2X the amount that would be recommended against the Respondent, or if such a penalty would exceed the maximum civil penalty allowable by law, then the penalty recommended shall be the maximum civil penalty allowable by Kansas law; <b>currently \$5,000.00</b> . See K.S.A. 2014 Supp. 66-1,142b(a).					

<sup>1</sup> Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

# Violations Re: Hazardous Materials Violations; K.A.R. 82-4-20

(Transportation of Hazardous Materials by Motor Vehicles Violations)

Regulation / Statute	Standard Civil Penalty			Enhanced Civil Penalty <sup>1</sup>		
	1-5 Violations	6-30 Violations	31+ Violations	1-5 Violations	6-30 Violations	31+ Violations
49 C.F.R. § 107.601 HM Registration	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
49 C.F.R. § 172.200 Shipping Papers	\$200.00	\$300.00	\$500.00	\$400.00	\$600.00	\$1,000.00
49 C.F.R. § 172.500 Placarding	\$200.00	\$300.00	\$500.00	\$400.00	\$600.00	\$1,000.00
49 C.F.R. § 172.600 Emergency Response Information	\$300.00	N/A	N/A	\$600.00	N/A	N/A
49 C.F.R. § 172.700 HM Training	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
49 C.F.R. § 172.800 Security Plans	\$500.00	N/A	N/A	\$1,000.00	N/A	N/A
49 C.F.R. § 180.401 Qualification & Maintenance of Cargo Tanks	\$500.00	\$750.00	\$1,000.00	\$1,000.00	\$1,500.00	\$2,000.00
<b>Repeated Violations of Enhanced Civil Penalty</b>	A repeat violation of an enhanced civil penalty occurring within twenty-four months from the date the previous enhanced civil penalty was issued against the Respondent receives an enhanced civil penalty recommendation equal to 2X the amount that would be recommended against the Respondent, or if such a penalty would exceed the maximum civil penalty allowable by law, then the penalty recommended shall be the maximum civil penalty allowable by Kansas law; <b>currently \$5,000.00</b> . See K.S.A. 2014 Supp. 66-1,142b(a).					

Enhanced civil penalties are recommended if the same violation occurs within twenty-four months from the date the previous civil penalty was assessed against the Respondent.

**CERTIFICATE OF SERVICE**

16-TRAM-588-MIS

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 AUG 18 2016.

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/s/ DeeAnn Shupe  
DeeAnn Shupe

**Order Mailed Date**  
**AUG 18 2016**