

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20170711162631
Kansas Corporation Commission

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

18-TRAM-004-PEN

July 11, 2017

Robert Royer, Member
Royer Brothers Tree Service, LLC
348 S 3rd Street
Sterling, Kansas 67579

Certified Mail Receipt No. 70161970000105740419

This is a notice of a penalty assessment against Royer Brothers Tree Service, LLC for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 15, 2017, by Kansas Corporation Commission Special Investigator(s) Doug Handy. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

Royer Brothers has been assessed a \$250 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$250, through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

ROYAL BROTHERS IS A NEW ENTRANT MOTOR CARRIER AND IS ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) assessed motor carriers in accordance with the FY 2018 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

(1) the carrier signs and submits within fifteen (15) days from the date of this Penalty Order, the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within 30 days from the date of the attached Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future; and

(3) within thirty (30) days from the date of the attached Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter.

(4) within 18 months from the date of the attached Penalty Order, the carrier must be available for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended

Penalty Order assessing the reduced penalty and setting out the terms and conditions stated above will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$125 would be due within thirty (30) days from the date of service of the Amended Penalty Order.

IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Royer Brothers Tree Service, LLC must file within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and by mailing a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail 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 of service of this Penalty Order and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$250 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If Royer Brothers submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order may be issued assessing the reduced penalty of \$125 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,



Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

REDUCED PENALTY AGREEMENT

18-TRAM-004-PEN

Royer Brothers Tree Service, LLC hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated July 11, 2017. Royer Brothers has agreed to comply with the following terms and obligations:

1. Royer Brothers has submitted, within fifteen (15) days from the date of the Penalty Order issued on July 11, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Royer Brothers will, within 30 days from the date of the Penalty Order dated July 11, 2017, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining the its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff before my company can be eligible for the 50% reduced penalty.

3. Royer Brothers will, within thirty (30) days from the date of the Penalty Order dated July 11, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.

4. Royer Brothers will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Royer Brothers Tree Service, LLC understands that if approved, Transportation Litigation Counsel will file a Motion for Amended Penalty Order with this Agreement attached to the motion. The Amended Penalty Order will assess Royer Brothers a fifty-percent (50%) reduced penalty of \$125, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Royer Brothers will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2017.

Royer Brothers Tree Service, LLC

Robert Royer
Member

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

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

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

In the Matter of the Investigation of **Royer**)
Brothers Tree Service, LLC, of Sterling,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 18-TRAM-004-PEN
and the 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. 2016 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. 2016 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. 2016 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. Royer Brothers Tree Service, LLC (Royer Brothers) has private operating authority from the Commission and further operates under USDOT number 1241325.

5. Erick Stover attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on December 9, 2013, on behalf of Royer Brothers.

6. Royer Brothers is a private motor carrier which primarily hauls motor vehicles, logs, poles, beams, lumber, building materials, machinery, large objects, garbage, refuse, trash, chemicals, farm supplies, construction and rock/dirt.

7. Royer Brothers is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below in accordance with the FY 2018 Uniform Penalty Assessment Matrix.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on May 15, 2017, Commission Staff (Staff) Special Investigator(s) Doug Handy conducted a compliance review of the operations of Royer Brothers. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On January 3, 2017, Royer Brothers required or permitted its driver, John P. Gilley, to operate a CDL-required commercial motor vehicle, a 2001

Freightliner, VIN ending in 9-956, GVWR 52,000 lbs., pulling a 2015 Kaufman trailer, VIN ending in 000786, GVWR 45,000 lbs., in intrastate commerce from Hutchinson, Kansas to Manhattan, Kansas. This trip is evidenced by Driver/Vehicle Examination Report No. KSHP92660582, dated January 3, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Royer Brothers 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. The carrier'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), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,112. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Royer Brothers committed one (1) violation(s) 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.

10. Staff recommends a civil penalty of \$250 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Royer Brothers Tree Service, LLC is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it submits to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the Reduced Penalty Agreement, which is attached to the Notice of Penalty Assessment.

12. Staff recommends Royer Brothers Tree Service, LLC submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that Royer Brothers attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

14. Finally, Staff recommends that Royer Brothers submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

15. The Commission finds it has jurisdiction over Royer Brothers because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$250 should be assessed to Royer Brothers for committing one (1) violation(s) 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.

17. The Commission finds Royer Brothers is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction in the penalty(s) assessed motor carriers in accordance with the FY 2018 Uniform Penalty Assessment Matrix. The carrier must submit to Litigation Counsel, within fifteen (15) days from the date of this Penalty Order, the signed and dated Reduced Penalty Agreement, which states it will comply with the reduced penalty terms and obligations set out therein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Royer Brothers Tree Service, LLC, of Sterling, Kansas is hereby assessed a penalty of \$250 for one (1) violation(s) 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. Payment of \$250 must be made through your personal account with the Kansas Corporation Commission's KTRAN application located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

B. Royer Brothers is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. 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.

C. Royer Brothers must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s)

described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Royer Brothers is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Royer Brothers does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$250 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Royer Brothers's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. **Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, within fifteen (15) days from the date of service of this Penalty Order. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel within fifteen (15) days from the date of service of this Order. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel within fifteen (15) days from the date of service of this Order.** On July 11, 2017, this Order was mailed via Certified Mail,

Return Receipt Requested, Receipt Number 70161970000105740419. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Royer Brothers' right to a hearing.

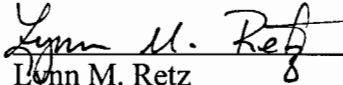
G. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination 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. 2016 Supp. 66-1,142b(e) and amendments thereto.

H. 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JUL 11 2017


Lynn M. Retz
Secretary to the Commission


AAL

Order Mailed Date

JUL 12 2017

ATTACHMENT "A"

Kansas Corporation Commission

	US DOT # 1241325	Legal: ROYER BROTHERS TREE SERVICE LLC											
	Operating (DBA):												
MC/MX #:		State #: [REDACTED]	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													
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Carrier: N/A</td> <td style="width:33%;">Interstate</td> <td style="width:33%;">Intrastate</td> </tr> <tr> <td>Shipper: N/A</td> <td></td> <td></td> </tr> <tr> <td>Cargo Tank: N/A</td> <td></td> <td></td> </tr> </table>		Carrier: N/A	Interstate	Intrastate	Shipper: N/A			Cargo Tank: N/A			Business: Corporation Gross Revenue: [REDACTED] for year ending: 12/31/2016		
Carrier: N/A	Interstate	Intrastate											
Shipper: N/A													
Cargo Tank: N/A													
Company Physical Address:													
[REDACTED]													
Contact Name: Robert Royer													
Phone numbers: (1) [REDACTED]													
E-Mail Address: [REDACTED]													
Company Mailing Address:													
348 S 3RD ST STERLING, KS 67579-2382													
Carrier Classification													
Private Property													
Cargo Classification													
Motor Vehicles		Logs, Poles, Beams, Lumber		Building Materials									
Machinery, Large Objects		Garbage, Refuse, Trash		Chemicals									
Farm Supply		Construction		Other: Rock/Dirt									
Hazardous Materials													
2.1 Flammable gas		Carried	Non-Bulk	2.2 Nonflammable gas									
3 Flammable liquid		Carried	Non-Bulk	Carried									
Equipment													
	Owned	Term Leased	Trip Leased										
Truck	27	0	0	Truck Tractor									
Trailer	25	0	0										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>Owned</td> <td>Term Leased</td> <td>Trip Leased</td> </tr> <tr> <td></td> <td>6</td> <td>0</td> <td>0</td> </tr> </table>						Owned	Term Leased	Trip Leased		6	0	0	
	Owned	Term Leased	Trip Leased										
	6	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											
< 100 Miles:		30	Average trip leased drivers/month: 0										
>= 100 Miles:			Total Drivers: 30										
			CDL Drivers: 30										





ROYER BROTHERS TREE SERVICE LLC

U.S. DOT #: 1241325

State #: [REDACTED]

Review Date:

05/15/2017

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: Robert Royer

Title: Member

Name: [REDACTED]





ROYER BROTHERS TREE SERVICE LLC
U.S. DOT #. 1241325

State #

Review Date
05/15/2017

Part B Violations

1 FEDERAL	Primary: 390.19(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
Description Failing to file the appropriate form under 390.19(a) (MCS-150, 150B, or 150C) each 24 months according to the schedule. Example Driver Name: [REDACTED] Trip Date: 01/03/2017 Carrier MCS-150 update required in May of 2016. Last MCS-150 update on 04/28/2015.				
2 STATE	Primary: 391.25(a) CFR Equivalent: 391.25(a)	Discovered 6	Checked 8	Drivers/Vehicles In Violation Checked 6 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 01/03/2017 Hire Date 08/30/2004 Ks. Roadside Inspection #KSHP92660582 Carrier failed to obtain the drivers' record with the State 2015-2016. Driver qualification file had MVR obtained on 01/28/2014. The most recent MVR was obtained on 04/06/2017				
3 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 6	Checked 8	Drivers/Vehicles In Violation Checked 6 8
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 01/03/2017 Ks. Roadside Inspection #KSHP92660582 Carrier failed to perform the annual review as required for 2015-2016. Driver qualification file indicated an annual review conducted on 04/27/2017. No other annual reviews were completed in the driver qualification file.				
4 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 6	Checked 8	Drivers/Vehicles In Violation Checked 6 8
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 01/03/2017 Hire Date 08/30/2004 Ks. Roadside Inspection #KSHP92660582 Carrier failed to have the driver complete a certification of violations annually as required for 2015-2016. Driver qualification file indicated a certification of violations was conducted on 01/07/2014. The most recent certification of violations in the driver qualification file was completed on 04/26/2017.				





ROYER BROTHERS TREE SERVICE LLC
U.S. DOT #: 1241325

State #. [REDACTED]

Review Date:
05/15/2017

Part B Violations

5 FEDERAL	Primary: 391.51(b)(9)	Discovered 8	Checked 8	Drivers/Vehicles In Violation 8	Checked 8
Description Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s) Example Driver Name [REDACTED] Trip Date 01/03/2017 Ks. Roadside Inspection #KSHP92660582 Medical Examiner [REDACTED], Nat. #2456163893 Driver medically certified on 12/30/2015 expires on 12/30/2017 Carrier failed to get verification of the medical examiner. Reviewed 8 different medical certification that were conducted by 8 different medical examiners.					
Safety Fitness Rating Information:					
Total Miles Operated	175,000	OOS Vehicle (CR): 0			
Recordable Accidents	1	Number of Vehicle Inspected (CR): 0			
		OOS Vehicle (MCMIS): 1			
		Number of Vehicles Inspected (MCMIS): 2			

Your proposed safety rating is :

This Review is not Rated.





ROYER BROTHERS TREE SERVICE LLC

U.S. DOT #: 1241325

State #: [REDACTED]

Review Date

05/15/2017

Part B Requirements and/or Recommendations

1. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>)

2. 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.

- 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

- 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. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

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.

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

3. UNSAFE DRIVING BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN- Royer Brothers Tree Service, LLC failed to conduct the annual reports in the driver qualification files. Files were missing certification of violations, annual reviews, and MVR's for





ROYER BROTHERS TREE SERVICE LLC
U.S. DOT #: 1241325

State #

Review Date:
05/15/2017

Part B Requirements and/or Recommendations

2015-2016 BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Ensure that the safety director/dispatchers ascertain that all routes can be completed within speed limits.
- Maintain roadside inspection reports, moving violation records, and "How am I driving?" complaints to help evaluate the performance of all staff (drivers and managers) involved in safe driving and the effectiveness of the policies and procedures
- 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 safe driving. If a driver seems to have license-related problems, 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.
- Ensure that dispatchers and/or the safety manager monitor drivers' speed for violations with use of an electronic or manual movement record that is, that they track driver movements via driver reports, global positioning systems (GPS), and travel receipts.
- Evaluate personnel who are monitoring drivers' safety performance by making sure that they are using inspections and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- Place a "How am I driving?" sticker on every truck to get feedback from the public on drivers exhibiting unsafe behaviors on the road. Assess feedback for safety implications.
- Regularly evaluate the company's unsafe-driving-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 unsafe-driving regulations and company policies.
- Implement a system for keeping accurate records of employee driving-safety training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method
- When monitoring and tracking any unsafe-driving-related 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.).

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.

4. For all investigations that could result in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance investigation may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order. Your signature for the receipt of this report acknowledges your understanding that the violations discovered by the KCC during this investigation may be used to calculate any civil penalty proposed as a result of this investigation. Your signature is not an admission to the violations identified

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

6. 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 Royer Brothers Tree Service, LLC operating authority and/or the impoundment of Royer Brothers Tree Service, LLC vehicles





ROYER BROTHERS TREE SERVICE LLC

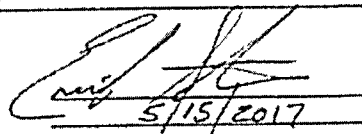
U.S. DOT #: 1241325

State #: [REDACTED]

Review Date:

05/15/2017

Part B Requirements and/or Recommendations


5/15/2017

Erick Stover, Safety Director

Date



ATTACHMENT "B"

S/W

DRIVER/VEHICLE EXAMINATION REPORT

INSPECT 10734



Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KS-HP92660582
Inspection Date: 01/03/2017
Start: 10:37 AM CT End: 11:09 AM CT
Inspection Level: II - Walk-Around inspection
HM Inspection Type: None

ROYER BROTHERS TREE SERVICE LLC

Driver: GILLEY, JOHN P

License#:

State: KS

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

HUTCHINSON, KS, 67501-9606

USDOT: 1241325

Phone:

MCMX#:

Fax#:

State#:

Location: RILEY COUNTY - 161

Milepost: 180 Shipper: CARRIER

Highway: K-18

Origin: HUTCHINSON, KS

Bill of Lading: N/A

County: RILEY

Destination: MANHATTAN, KS

Cargo: EQUIPMENT

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	GVSA #	Issued #	DOS Sticker
1	TR	FRHT	2001	KS		S-6		90956 52000			
2	FTKAUFMA	2015	KS			T-17		00786 40000			

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

VIOLATIONS: No violations were discovered

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: Alcohol/Controlled Substance Check
Conducted by Local Jurisdiction
X Size and Weight Enforcement

Traffic Enforcement
PASA Conducted Inspection
Drug Interdiction Search

Post Crash Inspection
PBST 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 _____ Title _____ Date _____

Report Prepared By:
J. French

Badge #:
9256

Copy Received By:
JOHN GILLEY



01241325 KS KSHP92660582

x

CERTIFICATE OF SERVICE

18-TRAM-004-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 JUL 11 2017.

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

ROBERT ROYER, MEMBER
ROYER BROTHERS TREE SERVICE, LLC
348 S 3RD ST
STERLING, KS 67579-2382
Fax: 620-278-3813
bobroyer@royerbrothers.com

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

JUL 12 2017