



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
22-TRAM-066-PEN

August 12, 2021

Yobeysis Gallego-Rodriguez, Owner
El Gallego Trucking LLC
715 N. Nickock Street
Ulysses, KS 67880-1606

This is a notice of a penalty assessment against El Gallego Trucking LLC (El Gallego) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 29, 2021, by Kansas Corporation Commission Special Investigator Erica Pargas and Penny Fryback. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: El Gallego has been assessed a \$4,250 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$4,250, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system 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.

The attached Order requires a representative of El Gallego to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

IF YOU CONTEST THE PENALTY ORDER: 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. El Gallego 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 mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$4,250 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

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

¹ K.A.R. 82-1-215; K.S.A. 77-542.

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

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Susan K. Duffy

In the Matter of the Investigation of **El Gallego**)
Trucking LLC, of Ulysses, KS, Regarding the)
Violation(s) of the Motor Carrier Safety Statutes,)
Rules and Regulations and the Commission’s) Docket No. 22-TRAM-066-PEN
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). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, 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. 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 issue an order 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. El Gallego Trucking LLC (El Gallego or Carrier) has common operating authority with the Commission and further operates under USDOT number 3324405.

5. Ruth M. Garcia Iglesias attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on October 21, 2019, on behalf of El Gallego.

6. El Gallego is a common motor carrier which primarily hauls grain, feed and hay.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 29, 2021, Commission Staff (Staff) Special Investigator Erica Pargas and Penny Fryback conducted a safety compliance review of the operations of El Gallego. 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, the special investigator identified five (5) violation(s) of the Motor Carrier Safety Regulations.

- a. On April 26, 2021, El Gallego required or permitted its driver, Rommys A. Cruz Garcia, to operate a CDL-required commercial motor vehicle, a 2004 Kenworth, VIN ending in 064749, GVWR 52,000 lbs., pulling a 1998 Wanco semi-railer, VIN ending in 459488, GVWR 60,000 lbs., in

interstate commerce from Pueblo, Colorado to Garden City, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number COPF25405308, dated April 26, 2021, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, El Gallego failed to keep minimum records of inspection and maintenance on its five (5) commercial motor vehicles. The Special Investigators found three (3) violations of this type. The Carrier’s failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

- b. During the transportation described in paragraph a., above, El Gallego failed to obtain, retain, or provide a periodic inspection on the 1998 Wanco semi-trailer. The Special Investigators found three (3) violations of this type. The Carrier’s failure to obtain, retain, or provide an annual inspection on commercial motor vehicles is a violation of 49 C.F.R. 396.17(a), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.
- c. On May 20, 2021, El Gallego required or permitted its driver, Herson Aguilar, to operate a CDL-required commercial motor vehicle, a 2013 Peterbilt, VIN ending in 166937, GVWR 33,000 lbs., pulling a 2021 Timpfe semi-trailer, VIN ending in 170416, in intrastate commerce from Goodland, Kansas to Ulysses, Kansas. This trip is evidenced by Driver’s

Daily Log, dated May 20, 2021, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, El Gallego’s load reflected 90,380 pounds, which is in excess of the maximum gross weight of 90,000 pounds allowed in Kansas. The Special Investigators found seven (7) violations of this type. The Carrier’s failure to stay within the legal gross weight limit is a violation of 49 C.F.R 392.2, adopted by K.A.R. 82-4-3h, and enforcing K.S.A. 8-1901. Staff recommends an enhanced fine of \$1,500.

- d. On May 4, 2021, El Gallego required or permitted its driver, Herson Aguilar, to operate a CDL-required commercial motor vehicle, a 2013 Peterbilt, VIN ending in 166937, GVWR 33,000 lbs., pulling a 2021 Timpte semi-trailer, VIN ending in 170416, in intrastate commerce from Goodland, Kansas to Syracuse, Kansas. This trip is evidenced by Driver’s Daily Log, dated May 20, 2021, and an email chain dated July 21, 2021, a copy of which is attached hereto as Attachment “D” and is hereby incorporated by reference. At the time of this transportation, El Gallego failed to obtain, retain, or provide a copy of the bill of lading and the scale ticket for this load. The Special Investigators found seventy-three (73) violations of this type. The Carrier’s failure to provide the bill of lading and the scale ticket for this load is a violation of 49 C.F.R 392.2, adopted by K.A.R. 82-4-3h, and enforcing K.A.R. 82-4-35a. Staff recommends an enhanced fine of \$1,000.

- e. During the transportation described in paragraph d., above, El Gallego failed to obtain the inspector certification for the Annual Inspection completed on the commercial motor vehicle. The Carrier's failure to retain evidence of the inspector's qualifications to inspect the commercial motor vehicles is a violation of 49 C.F.R. 396.19(a), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Staff submitted a Report and Recommendation (R&R), dated August 4, 2021, attached hereto as Attachment "E" and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

9. Based upon the available facts, Staff recommends the Commission finds El Gallego committed five (5) 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. Additionally, Staff recommends a civil penalty of \$4,250 for five (5) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from El Gallego be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

12. Staff further recommends El Gallego submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

13. Finally, Staff recommends that El Gallego 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.

V. CONCLUSIONS OF LAW

14. The Commission finds it has jurisdiction over El Gallego pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds El Gallego committed five (5) 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.

THE COMMISSION THEREFORE ORDERS THAT:

A. El Gallego Trucking LLC, of Ulysses, KS is hereby assessed a \$4,250 civil penalty for five (5) 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.

B. El Gallego is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. El Gallego 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 Carrier to set up the appointment.

E. Pursuant to K.S.A. 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. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of El Gallego's right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, 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.²

G. If you do not request a hearing, the payment of the civil penalty of \$4,250 is due in thirty (30) days from the date of service of this Order. Payment of \$4,250 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$4,250 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of El Gallego's motor carrier operating authority without further notice.³ Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 08/12/2021



Lynn M. Retz
Executive Director

AAL

² . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

³ K.S.A. 66-1,105.

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 3324405
MC/MX#: 1062292

Legal: EL GALLEGU TRUCKING LLC
Operating (DBA):

Investigation Date:
07/29/21

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)

Extent of Operations: Entire Operation

Physical Address

715 N HICKOK ST
ULYSSES, KS 67880-1606
United States

Mailing Address

715 N HICKOK ST
ULYSSES, KS 67880-1606
United States

Contact Information

Contact Name: YOBEYSIS GALLEGU-RODRIGUEZ, MELISSA HUERTA

Email: G [REDACTED]

Phone: [REDACTED] **Cell:** ()- **Fax:** ()-

Business and Financial

Business Type: Limited Liability Corporation

Gross Revenue: [REDACTED] **For Year Ending:** 12/31/20

Federal Tax ID: [REDACTED]

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier, Non-HM Intrastate Carrier

Operation Classification

For-Hire Motor Carrier

Property

Other Non-Hazardous Freight

Cargo

Grain, Feed, Hay

Equipment

	Owned	Term Leased	Trip Leased
Truck Tractors	3	3	
Trailers	1	3	

Power units used in the U.S.: 6

Percentage of time used in the U.S.: 100%

Driver Information

Drivers

	Intrastate	Interstate
< 100 Miles		
> = 100 Miles		4

Average trip leased driver/month: 0

Drivers with CDL: 4

Total Drivers: 4

Person(s) Interviewed**Name:** YOBESIS GALLEGU-RODRIGUEZ**Title:** OWNER**Name:** MELISSA HUERTA**Title:** AGENT**Questions**

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

1303 SW FIRST AMERICAN PL STE 200
TOPEKA, KS 66604-4040
Phone: (785) 271-1260
Fax: (877) 547-0378

This report will be used to assess your safety compliance.

Violations

1. Primary: 396.3(b)

Failing to keep minimum records of inspection and vehicle maintenance.

C

Critical
At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	3	3

Checked

Fed	State	Total
	5	5

BASIC Impacted
Vehicle Maintenance

Rating Factor 4:
Vehicle = Part 396

Example/Notes:

1998 WANCO
VIN# [REDACTED] 459488
4/26/21
On 4/26/21, El Gallego Trucking L.L.C. operated a 1998 WANCO with VIN [REDACTED] 459488 in interstate commerce from Pueblo, CO to Garden City, KS. At the time of this operation, El Gallego Trucking L.L.C. did not have a maintenance record for the unit being operated.

Drivers/Vehicles

In Violation	Checked
3	5

2. Primary: 396.17(a)

Using a commercial motor vehicle not periodically inspected.

C

Critical
At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	3	3

Checked

Fed	State	Total
	5	5

BASIC Impacted
Vehicle Maintenance

Rating Factor 4:
Vehicle = Part 396

Example/Notes:

1998 WANCO VIN# [REDACTED] 459488
4/26/21
On 4/26/21, El Gallego Trucking L.L.C. operated a 1998 WANCO VIN# [REDACTED] 459488 in interstate commerce from Pueblo, CO to Garden City, KS. El Gallego Trucking L.L.C. failed to provide an annual inspection for this unit.

Drivers/Vehicles

In Violation	Checked
3	5

3. Primary: 376.11

Violations Discovered

Secondary: 376.12

Authorized carrier performed authorized transportation in equipment it does not own without obtaining a written lease.

Fed	State	Total
	1	1

Checked

Fed	State	Total
	5	5

Example/Notes:

On 5/4/21, El Gallego Trucking L.L.C. operated Unit #69 in intrastate commerce. At the time of operation, El Gallego Trucking L.L.C. did not have a written lease agreement for the operation of Unit #69.

Drivers/Vehicles

In Violation	Checked
1	5

4. Primary: 391.21(a)

Using a driver who has not completed and furnished an employment application.

Violations Discovered

Fed	State	Total
	3	3

Checked

Fed	State	Total
	4	4

Example/Notes:

Jorge Aguilar Aguilar
4/1/21
On 4/1/21, El Gallego Trucking L.L.C.'s driver, Jorge Aguilar Aguilar provided an employment application that was not complete. The driver failed to note previous positions held, and if he was subject to FMCSR's.

Drivers/Vehicles

In Violation	Checked
3	4

5. Primary: 392.2
State Equivalent: K.S.A. 1,1901

Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Other.

Violations Discovered

Fed	State	Total
	7	7

Checked

Fed	State	Total
	120	120

Example/Notes:

Trip date: 5/20/21
Driver's name: Herson Aguilar Aguilar
Vehicle number: Unit #69
On 5/20/21, El Gallego Trucking L.L.C. allowed or required driver, Herson Aguilar Aguilar to haul a load of corn with a gross vehicle weight of 90,220, over the allowed weight in Kansas.

Drivers/Vehicles	
In Violation	Checked
1	4

6. Primary: 392.2
State Equivalent: K.A.R. 82-4-35a

Failure to retain supporting documents (Bills of lading, fuel receipts, and scale tickets)

Violations Discovered		
Fed	State	Total
	73	73

Checked		
Fed	State	Total
	128	128

Example/Notes:

On May 4, 2021, El Gallego Trucking L.L.C. failed to retain supporting documents for loads hauled by driver, Herson Aguilar.

Drivers/Vehicles	
In Violation	Checked
73	128

7. Primary: 396.3(b)(1)

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.

Violations Discovered		
Fed	State	Total
	2	2

Checked		
Fed	State	Total
	5	5

Example/Notes:

On 4/26/21, El Gallego Trucking L.L.C. operated Unit #38 in interstate commerce. At the time of operation, El Gallego Trucking L.L.C. had a maintenance record that did not properly identify the Unit. The maintenance record failed to note the tire size.

Drivers/Vehicles	
In Violation	Checked
2	5

8. Primary: 396.19(b)

Failing to maintain evidence of inspector's qualifications.

Violations Discovered		
Fed	State	Total

	<table><tr><td></td><td>1</td><td>1</td></tr></table> Checked <table><tr><td>Fed</td><td>State</td><td>Total</td></tr><tr><td></td><td>1</td><td>1</td></tr></table>		1	1	Fed	State	Total		1	1
	1	1								
Fed	State	Total								
	1	1								
Example/Notes: Inspectors name: Yobeysis Gallego-Rodriguez Inspection date: 1/14/21 Vehicle: Unit #38 Trip date: 4/26/21 On 4/26/21, El Gallego Trucking L.L.C. had an annual inspection completed on Unit #38 by inspector, Yobeysis Gallego-Rodriguez. El Gallego Trucking L.L.C. failed to retain or provide inspector qualifications for inspector Yobeysis Gallego-Rodriguez.	Drivers/Vehicles <table><tr><td>In Violation</td><td>Checked</td></tr><tr><td>1</td><td>1</td></tr></table>	In Violation	Checked	1	1					
In Violation	Checked									
1	1									

Safety Fitness Rating

Your proposed safety rating is: **CONDITIONAL** 1 UNSATISFACTORY rating factor and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory		
Factor 3: Operational = Parts 392 and 395	Satisfactory		
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0 OOS Rate: 0%	Unsatisfactory		2
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Not Rated		
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 167,015 Recordable Accidents: 0 Recordable Accidents/Million Miles: 0.00	Satisfactory	N/A	N/A

Effective date: You will receive an official notice of proposed safety rating from the Federal Motor Carrier Safety Administration in Washington, D.C. The Conditional rating will take effect 60 days after the date of the official notice.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

You may request a safety rating upgrade based on corrective action under 49 CFR 385.17 and/or an administrative review under 49 CFR 385.15.

Change to safety rating based on corrective action: You may request a change to a safety rating under 49 CFR 385.17 at any time by providing evidence that you have taken actions to correct the deficiencies that resulted in the safety rating. You must make this request in writing to the Field Administrator for the FMCSA Service Center in which you maintain your principal place of business. A pending request for a change in safety rating under 49 CFR 385.17 will not delay the effective date of the rating.

Administrative Review: You may appeal your proposed safety rating in a petition filed under 49 CFR 385.15 if you believe FMCSA made an error in assigning your safety rating. You must submit your appeal within 90 days of the date of the proposed safety rating or within 90 days after denial of a request for a change in rating under section 385.17(i). If the safety rating improves a previous Unsatisfactory rating, it becomes effective immediately and you must submit your appeal within 90 days of the final safety rating. A petition under section 385.15 will not delay the effective date of the rating unless the Chief Safety Officer grants a stay.

You must submit your appeal in writing to: Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and

track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Vehicle Maintenance Process Breakdown: Monitoring and Tracking

El Gallego Trucking L.L.C. will maintain maintenance files for each unit they are operating.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records.
2. 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.
3. 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.
4. 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.
5. 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.

BASIC: Hours-of-Service Compliance Process Breakdown: Monitoring and Tracking

El Gallego Trucking L.L.C. will be sure to retain all supporting documents for all loads.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
2. Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.
3. Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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.

2. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

3. **Obtain copies of the regulations, forms, interpretations, manuals.**

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

4. **A copy of your profile can be obtained by accessing the Portal.**

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

5. **Conduct periodic internal reviews. (non-HM)**

Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.

6. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

7. **Duty status records must be kept on file for 6 months.**

Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.

8. **Retain supporting documents for 6 months.**

Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.

9. **Establish a maintenance records program for all vehicles.**

Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed.

10. **Review maintenance and inspection records for all vehicles.**

Periodically review the maintenance and inspection records for all vehicles as required by Part 396 of the FMCSR. Keep a record to document these reviews and notify the vehicle owner of any violations detected.

11. **SMS website**

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review your safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

12. **Unsat & Conditional CR's**

I 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.

Apply Adequate Resources: Apply adequate resources to properly implement safety management practices. Consider reallocating responsibilities, additional staffing, contracting, or investing in technology to aid in this responsibility.

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.

Notice: 49 C.F.R. Part 391.23 requires prospective employers to , at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substance history from all employers the driver worked for within the previous three 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 is a screening tool that assists 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. Motor carriers should visit the following website for more information:

FMCSA Carrier Safety Measurement System (SMS) is based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. SMS effectively identifies and prioritize high risk and other unsafe motor carriers for enforcement interventions and is designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview their companies SMS information.. The data preview may be found at <http://csa.fmcsa.dot.gov/>.

For all Investigations resulting in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance review 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 receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

US Department of Transportation
Kansas Division
Michael Christopher - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, Kansas 66604-4040

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings.

Your petition should be addressed to:

US Department of Transportation
Jack Van Steenburg -Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation
Max Strathman - Midwestern Field Administrator Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300-A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation
Kansas Division
Michael Christopher - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

This letter should be submitted as soon as possible. Information on your compliance status, roadside inspections, regulatory changes, accident counter measures and hazardous material counter measures 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/>.

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

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov
FAX: 785-271-3124;

or mail to:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Road

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 Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of El Gallego Trucking L.L.C.'s operating authority and/or the impoundment of El Gallego Trucking L.L.C.'s vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans_penalty_assessment_table.htm

X _____

Signature

X _____

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 Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of El Gallego Trucking L.L.C.'s operating authority and/or the impoundment of El Gallego Trucking L.L.C.'s vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans_penalty_assessment_table.htm

X _____

Signature

x Melissa Hoot 7-29-21

ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Colorado State Patrol - Motor Carrier Safety
15075 South Golden Road
Golden, CO 80401
Phone: (303) 273-1875
Email: signedreport@state.co.us

Report Number: COPF25405308
Inspection Date: 04/26/2021
Start: 10:10 AM MT End: 10:45 AM MT
Inspection Level: II - Walk-Around
HM Inspection Type: None

Carrier: EL GALLEGOS TRUCKING LLC

DBA:
715 N HICKOK ST
ULYSSES, KS, 67880-1606
USDOT: 3324405

MC/MX#:

State#:

Location: LAMAR POE EB

Highway: H50

County: PROWERS

Driver: CRUZ GARCIA, ROMMYS A

License#:

Date of Birth:

CoDriver:

License#:

Date of Birth:

State: NE

State:

Milepost: 433 Shipper: N/A

Origin: PUEBLO, CO

Destination: GARDEN CITY, KS

Bill of Lading: N/A

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	KW	2004	KS		38	064749	52000			
2	ST	WANC	1998	OK			459488	60000			

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

VIOLATIONS

Section	Type	Unit	OOS	CP	Citation #	Verify	Crash	Violations Discovered
393.95A	F	1	N	N		N	N	No/discharged/unsecured fire extinguisher: No fire extinguisher at time of contact.
393.95F	F	1	N	N		N	N	No / insufficient warning devices: No triangles at time of contact.
396.3A1-LLEAK	F	1	Y	N		A	N	A liquid fuel system with a dripping leak at any point.: Fuel cap not secured and fuel leaking onto roadway.
393.9TS	F	2	Y	N	252101141	U	N	Inoperative turn signal: No left rear turn signal as required.
42-4-1407.5	S	2	N	N		N	N	Splash Guards Required: Missing right rear splash guard at time of contact.

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: No data for special checks

Notes: Driver stated he fueled this morning in Garden City when he left at the yard. Stated he did not stop anywhere else to fuel. Passenger side fuel cap was off and sloshing fuel. I gave the driver the opportunity to fix the lamp at toc, but was unable at the site.

I hereby declare vehicles so marked to be "OUT OF SERVICE." No person shall operate such vehicles until the out-of-service defects have been repaired and vehicles have been restored to safe operating condition.

If the inspector placed the vehicle out-of-service, a signature is required below in addition to the carrier official's signature. I HEREBY CERTIFY THAT ALL VIOLATIONS INDICATED ABOVE HAVE BEEN REPAIRED.

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.

Signature Of Repairer X: _____ Facility: _____ Date: _____

All defects noted on this sheet must be corrected before the vehicle is redispached. A responsible company official must then certify by signing below that all defects have been corrected. RETURN THIS FORM WITHIN 15 DAYS to the Colorado State Patrol-Motor Carrier Safety section by emailing to SIGNEDREPORT@STATE.CO.US

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By: J. PECK
ID/Badge #: PE6965

Copy Received By: ROMMYS CRUZ GARCIA

X

X



ATTACHMENT “C”



DRIVER'S DAILY LOG

(24 HOURS)

5 / 20 / 21
(Month) (Day) (Year)

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days

480

Total Miles Driving Today

Total Mileage Today

El Gallego
Name of Carrier or Carriers

Mysses KS
Main Office Address

69 - T69

Truck/Tractor and Trailer Numbers or
License Plate(s) / State (show each unit)

Home Terminal Address

I certify these entries are true and correct:

Driver's Full Signature

Co-Driver's Name

MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
-----------	---	---	---	---	---	---	---	---	---	----	----	------	---	---	---	---	---	---	---	---	---	----	----	-------------

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY (NOT DRIVING)

AG Exempt

MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11
-----------	---	---	---	---	---	---	---	---	---	----	----	------	---	---	---	---	---	---	---	---	---	----	----

REMARKS

KS 480

SHIPPING DOCUMENTS:

B/L or Manifest No.
or

Shipper & Commodity

Enter name of place you reported and where released from work and when and where each change of duty occurred.

From: To:

USE TIME STANDARD AT HOME TERMINAL

Copyright 2012 & Published by J. J. KELLER & ASSOCIATES, INC.®

RECAP
Complete at end of workday.

On-duty hours today. (Total lines 3 & 4)

70 Hour/ 8 Day Drivers

A. Total hours on duty last 7 days, including today.

B. Total hours available tomorrow. 70 hr. minus A.*

C. Total hours on duty last 8 days, including today.

60 Hour/ 7 Day Drivers

A. Total hours on duty last 6 days, including today.

B. Total hours available tomorrow. 60 hr. minus A.*

C. Total hours on duty last 7 days, including today.

*If you meet the 34-hour restart requirements in §395.3, you have 60/70 hours available again.

8526



Cactus Feeders
1765 E Highway 25 Ulysses, KS 67880

5/20/2021 4:03:00 PM

TICKET: U29584

Gross: 90380 lb

Tare: 28580 lb

Net: 61800 lb

Product: 02 CORN

Company: THE ANDERSONS INC

Origin Ticket No: 49605

Driver Signature:

Herson

I certify this trailer did not contain
Restricted Use Protein on the last load
and/or has been properly cleaned.



P.O. Box 998
Goodland, KS 67735

OUTBOUND TICKET AND BILL
OF LADING #: 100-0049605

GOODLAND GRAIN & AG

CUSTOMER: CACTFEED000
CACTUS FEEDERS
AMARILLO TX

CONT#:0010754

FRONTIER AG, INC CON#:0010754
REFERENCE TICKET NUM.:

COMMODITY: CORN
VAR/CLASS: CORN
3RN PRICE:

TEST WEIGHT 58.00

SHIPPER: 0000001898
EL GALLEGO TRUCKING LLC
ULYSSES KS

Herson

DRIVER NAME:

DRIVER SIGN: *Herson*

DRIVER ON: Y

FIELD ID:

E2

VEHICLE ID: GALLEGO 69

05/20/21 12:17	30600 LBS GROSS	S
05/20/21 11:57	28800 LBS TARE	S
	61800 LBS NET WEIGHT	

DOCKAGE LBS	0
NET LBS	61800
NET BU	1103.57

WEIGHER: JOHN

Approved by the Kansas Department of Agriculture

Warning*Combustible Dust*May form combustible dust concentrations in air

ATTACHMENT “D”



DRIVER'S DAILY LOG

(24 HOURS)

5 / 4 / 21
(Month) (Day) (Year)

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days

RECAP
Complete at
end of workday.

660

Total Miles Driving Today

Total Mileage Today

El Gallego Trucking

Name of Carrier or Carriers

Wyszes KS

Main Office Address

On-duty hours
today, (Total
lines 3 & 4)

**70 Hour/
8 Day
Drivers**

69 - T69

Truck/Tractor and Trailer Numbers or
License Plate(s) / State (show each unit)

Home Terminal Address

I certify these entries are true and correct:

[Signature]

Driver's Full Signature

Co-Driver's Name

A.
Total hours on
duty last 7 days,
including today.

MID-NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11 TOTAL HOURS

1. OFF DUTY

2. SLEEPER
BERTH

3. DRIVING

4. ON DUTY
(NOT DRIVING)

AG Exempt

B.
Total hours
available
tomorrow.
70 hr. minus A.*

C.
Total hours on
duty last 8 days,
including today.

MID-NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11

REMARKS

KS-660

SHIPPING
DOCUMENTS:

B/L or Manifest No.
or

corn

Shipper & Commodity

From:

To:

Enter name of place you reported and where released from work and when and where each change of duty occurred.

USE TIME STANDARD AT HOME TERMINAL

Copyright 2012 & Published by J. J. KELLER & ASSOCIATES, INC.®

8526



A.
Total hours on
duty last 6 days,
including today.

B.
Total hours
available
tomorrow.
60 hr. minus A.*

C.
Total hours on
duty last 7 days,
including today.

*If you meet the
34-hour restart
requirements
in 49CFR 395.3, you
have 60/70
hours available
again.

From: [MELISSA DOMINGUEZ](#)
To: [Erica Pargas](#)
Subject: RE: El Gallego
Date: Wednesday, July 21, 2021 3:12:17 PM

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

no

From: Erica Pargas <e.pargas@kcc.ks.gov>
Sent: Wednesday, July 21, 2021 3:04 PM
To: MELISSA DOMINGUEZ <tmtrkinc@live.com>
Subject: RE: El Gallego

Do you have inspector qualification?

Erica Pargas, Special Investigator
Transportation Division
Kansas Corporation Commission
1500 SW Arrowhead Road | Topeka, KS | 66604-4027
Phone (620) 255-3868 | Fax (785) 271-3124

From: MELISSA DOMINGUEZ <tmtrkinc@live.com>
Sent: Wednesday, July 21, 2021 3:00 PM
To: Erica Pargas <e.pargas@kcc.ks.gov>
Subject: RE: El Gallego

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

Im leaving at 330 do you need anything?

From: Erica Pargas <e.pargas@kcc.ks.gov>
Sent: Wednesday, July 21, 2021 2:12 PM
To: MELISSA DOMINGUEZ <tmtrkinc@live.com>
Subject: El Gallego

In reviewing the Maintenance Records for El Gallego, there are 3 roadside Inspections in 2021 for (3) different trailers that are not on the equipment list and that we don't have a maintenance record for. Can you please advise as to who owns these trailers or why we don't have a record for them:

1. 1998 WANCO Oklahoma Plate VIN# [REDACTED] 459488

2. 2010 TEMPTE KS TAG #690971 VIN# [REDACTED] 122988
3. 2020 WILSON KS TAG #677391 VIN# [REDACTED] 6629563

Erica Pargas, Special Investigator

Transportation Division

Kansas Corporation Commission

1500 SW Arrowhead Road | Topeka, KS | 66604-4027

Phone (620) 255-3868 | Fax (785) 271-3124

ATTACHMENT “E”

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

FROM: Mike Hoeme, Director of Transportation
Gary Davenport, Deputy Director of Transportation

DATE: August 4, 2021

SUBJECT: Docket No. 22-TRAM-066-PEN
In the Matter of the Investigation of El Gallego Trucking LLC of Ulysses, Kansas
Regarding the Violation of the Motor Carrier Rules and Regulations and the
Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of
Motor Carrier Authority.

EXECUTIVE SUMMARY:

El Gallego Trucking LLC (El Gallego or Carrier) is a motor carrier possessing common operating authority from the Commission, primarily hauling grain, feed and hay. El Gallego operates under USDOT 3324405. On July 29, 2021, Commission Staff Special Investigator Erica Pargas and Penny Fryback conducted a safety compliance review of the operations of El Gallego. As a result of this investigation, the special investigator identified five (5) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$4,250.

DISCUSSION AND ANALYSIS:

On July 29, 2021, Commission Staff Special Investigator Erica Pargas and Penny Fryback conducted a safety compliance review of the operations of El Gallego. As a result of this investigation, the special investigator identified five (5) violation(s) of the Motor Carrier Safety Regulations.

Violation One (1 of 5)

On April 26, 2021, El Gallego required or permitted its driver, Rommys A. Cruz Garcia, to operate a CDL-required commercial motor vehicle, a 2004 Kenworth, VIN ending in 064749, GVWR 52,000 lbs., pulling a 1998 Wanco semi-railer, VIN ending in 459488, GVWR 60,000 lbs., in interstate commerce from Pueblo, Colorado to Garden City, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number COPF25405308, dated April 26, 2021. El Gallego failed to keep minimum records of inspection and maintenance on its five (5) commercial motor

vehicles. The Carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Two (2 of 5)

During the transportation described in Violation One, above, El Gallego failed to obtain, retain, or provide a periodic inspection on the 1998 Wanco semi-trailer. The Carrier's failure to obtain, retain, or provide an annual inspection on commercial motor vehicles is a violation of 49 C.F.R. 396.17(a), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Three (3 of 5)

On May 20, 2021, El Gallego required or permitted its driver, Herson Aguilar, to operate a CDL-required commercial motor vehicle, a 2013 Peterbilt, VIN ending in 166937, GVWR 33,000 lbs., pulling a 2021 Timppte semi-trailer, VIN ending in 170416, in intrastate commerce from Goodland, Kansas to Ulysses, Kansas. This trip is evidenced by Driver's Daily Log, dated May 20, 2021. El Gallego's load reflected 90,380 pounds, which is in excess of the maximum gross weight of 90,000 pounds allowed in Kansas. The Carrier's failure to stay within the legal gross weight limit is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and enforcing K.S.A. 8-1901. Staff recommends an enhanced fine of \$1,500.

Violation Four (4 of 5)

On May 4, 2021, El Gallego required or permitted its driver, Herson Aguilar, to operate a CDL-required commercial motor vehicle, a 2013 Peterbilt, VIN ending in 166937, GVWR 33,000 lbs., pulling a 2021 Timppte semi-trailer, VIN ending in 170416, in intrastate commerce from Goodland, Kansas to Syracuse, Kansas. This trip is evidenced by Driver's Daily Log, dated May 20, 2021, and an email chain dated July 21, 2021. El Gallego failed to obtain, retain, or provide a copy of the bill of lading and the scale ticket for this load. The Carrier's failure to provide the bill of lading and the scale ticket for this load is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-35a, and enforcing K.S.A. 8-1901. Staff recommends an enhanced fine of \$1,000.

Violation Five (5 of 5)

During the transportation described in Violation Four, above, El Gallego failed to obtain the inspector certification for the Annual Inspection completed on the commercial motor vehicle. The Carrier's failure to retain evidence of the inspector's qualifications to inspect the commercial motor vehicles is a violation of 49 C.F.R. 396.19(a), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find El Gallego committed five (5) 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.

Additionally, Staff recommends a civil penalty of \$4,250 for five (5) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from El Gallego be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

Staff further recommends El Gallego submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the 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.

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

CERTIFICATE OF SERVICE

22-TRAM-066-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail and electronic service on 08/12/2021.

Yobeysis Gallego, OWNER
El Gallego Trucking L.L.C.
715 N Hickock
Ulyssess, KS 67880
gallegotruckingllc@gmail.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe
DeeAnn Shupe