

STATE OF KANSAS



CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

**NOTICE OF PENALTY ASSESSMENT**

September 25, 2018

19-TRAM-107-PEN

Chris Noonan, Managing Member  
Kansas Ag Freight Company, LLC  
1840 E South Avenue  
Emporia, KS 66801

This is a notice of a penalty assessment against Kansas Ag Freight Company, LLC (Kansas Ag Freight) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 12, 2018, by Kansas Corporation Commission Special Investigator Jared Smith. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. 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:** Kansas Ag Freight has been assessed a \$1,600 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,600, through your personal account with the Kansas Corporation Commission's 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 Kansas Ag Freight 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm). The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

**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. Kansas Ag Freight 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 Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$1,600 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,

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

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

Before Commissioners:      Shari Feist Albrecht, Chair  
                                 Jay Scott Emler  
                                 Dwight D. Keen

In the Matter of the Investigation of **Kansas Ag**      )  
**Freight Company, LLC, of Emporia, KS,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 19-TRAM-107-PEN  
Commission's Authority to Impose Penalties,      )  
Sanctions and/or the Revocation of Motor      )  
Carrier Authority.      )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). 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. 2017 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. 2017 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. 2017 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 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. Kansas Ag Freight Company, LLC (Kansas Ag Freight) has private and common operating authority with the Commission and further operates USDOT number 2953435.

5. Chris Noonan attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 12, 2016, on behalf of Kansas Ag Freight.

6. Kansas Ag Freight is a private and common motor carrier which primarily hauls livestock.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 12, 2018, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of Kansas Ag Freight. 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 four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 12, 2018, Kansas Ag Freight required or permitted its driver, Jamison Herr, to operate a CDL-required commercial motor vehicle, a 2001 Peterbilt, VIN ending in 570234, GVWR 50,000 lbs., pulling a 2007

Cimmaron trailer, VIN ending in 814028, GVWR 65,000 lbs., in interstate commerce from Knippa, Texas to Scott City, Kansas. This trip is evidenced by Bill of Lading Number 3879, dated June 12, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Kansas Ag Freight had not investigated driver Jamison Herr's background within 30 days of employment. The carrier's failure to make investigations and inquiries with respect to each driver it employs within 30 days of employment is a violation of 49 C.F.R. 391.23, adopted by K.A.R. 82-4-3, and implemented by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. On June 25, 2018, Kansas Ag Freight required or permitted its driver, Jamison Herr, to operate a CDL-required commercial motor vehicle, a 2009 Peterbilt, VIN ending in 778116, GVWR 52,000 lbs., pulling a 2007 Cimmaron trailer, VIN ending in 814028, GVWR 65,000 lbs., in interstate commerce from Eldon, Missouri to Leroy, Kansas. This trip is evidenced by Bill of Lading Number 3887, dated June 25, 2018, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, Kansas Ag Freight failed to require to make its driver complete a record of duty status for the trip. The special investigator discovered nine (9) violations of this type. The carrier's failure to require its driver to keep records of duty status for each 24-hour period using the method described in 49 C.F.R. 395.8(a) and to submit the original record to the motor carrier within 13 days of creation is

in violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$250.

- c. During the transportation described in paragraph a., above, driver Jamison Herr submitted a Driver's Daily Log reporting "off duty" for the entire day of June 12, 2018, thereby providing a false record of duty status. Kansas Ag Freight's falsifying records of duty status is a violation of 49 C.F.R. 395.8(e)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$1,000.
- d. On March 18, 2018, Kansas Ag Freight required or permitted its driver, Billy Adams, to operate a CDL-required commercial motor vehicle, a 2000 Kenworth, VIN ending in 856095, GVWR 50,000 lbs., pulling a 2010 Merritt trailer, VIN ending in 022007, GVWR 71,000 lbs., in interstate commerce from Bristow, Oklahoma to Emporia, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP00962396, dated March 18, 2018, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, Kansas Ag Freight was found not to have preserved driver's records of duty status for six months as required by the regulations. The special investigator found 10 violations of this type. The carrier's failure to retain driver supporting documents and the record of duty status for a period of six (6) months is a violation of 49 C.F.R. Part

395.8(k)(1), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2017

Supp. 66-1,129. Staff recommends a fine of \$250.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission finds Kansas Ag Freight committed four (4) 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.

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

10. Staff further recommends that a representative from Kansas Ag Freight 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Kansas Ag Freight 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**

12. The Commission finds it has jurisdiction over Kansas Ag Freight because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Kansas Ag Freight committed four (4) 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. Kansas Ag Freight Company, LLC, of Emporia, KS is hereby assessed a \$1,600 civil penalty for four (4) 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. Kansas Ag Freight 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. Kansas Ag Freight 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.

D. Pursuant to K.S.A. 2017 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. 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 Secretary to the Commission, 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 Kansas Ag Freight's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,600 civil penalty

against Kansas Ag Freight, and ordering a representative from Kansas Ag Freight 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, and to submit to a safety compliance review within 18 months from the date of this Order.

E. 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. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2017 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$1,600 is due in thirty (30) days from the date of service of this Order. Payment of \$1,600 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

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



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.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner



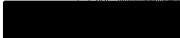


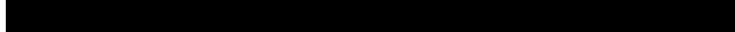

Dated: 09/25/2018



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Lynn M. Retz  
Secretary to the Commission

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## **ATTACHMENT “A”**

	US DOT # 2953435	Legal: KANSAS AG FREIGHT COMPANY LLC Operating (DBA):KSAG FREIGHT	
MC/MX #: 436		Federal Tax ID:  (EIN)	
Review Type: Compliance Review (CR)			
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.	Territory:
Operation Types		Interstate	Intrastate
Carrier:	Non-HM	Non-HM	Business: Corporation
Shipper:	N/A	N/A	Gross Revenue:  for year ending: 12/31/2017
Cargo Tank:	N/A		
Company Physical Address:			
 EMPORIA, KS 66801			
Contact Name: Chris Noonan			
Phone numbers: (1) 			
E-Mail Address: 			
Company Mailing Address:			
 EMPORIA, KS 66801			
Carrier Classification			
Authorized for Hire		Exempt for Hire	
Cargo Classification			
Livestock			
Equipment			
	Owned	Term Leased	Trip Leased
Truck Tractor	10	0	0
Trailer	11	0	0
Power units used in the U.S. 10			
Percentage of time used in the U.S., 100			
Does carrier transport placardable quantities of HM? No			
Is an HM Permit required? N/A			
Driver Information			
	Inter	Intra	Average trip leased drivers/month: 0
< 100 Miles:			Total Drivers: 6
>= 100 Miles:	6		CDL Drivers: 6





KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)  
U.S. DOT #. 2953435

Review Date  
07/18/2018

**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

**This report will be used to assess your safety compliance.**

**Person(s) Interviewed**


**Name:** Chris Noonan

**Title:** Managing Member

**Name:** [REDACTED]

**Title:** Office Manager



	KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba) U.S DOT # 2953435	Review Date. 07/18/2018
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### Part B Violations

1 FEDERAL	Primary 391.23(c)	Discovered 1	Checked 5	Drivers/Vehicles In Violation	Checked 5
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#### Description

Failing to investigate driver's background within 30 days of employment.

#### Example

On June 12, 2018 Kansas Ag Freight Company LLC dba KSAG Freight had driver Jamison Herr (KS CDL# [REDACTED]) operate a 2001 Peterbilt (Unit # 2, VIN # [REDACTED] 570234) in combination with a 2007 Cimmaron trailer (VIN # [REDACTED] 314028). These vehicles have a gross vehicle weight rating of 50,000 lbs. and 65,000 lbs. Driver Jamison Herr operated in commerce on an interstate trip from Knippa, Texas to Scott City, Kansas. This trip is evidenced by a bill of lading and a fuel receipt. At the time of this trip carrier was found to be in violation of failing to investigate driver's background within 30 days of employment. Driver was hired on 1/5/18 the only MVR on file was obtained on 6/21/18.

2 STATE	Primary 395.8(a) CFR Equivalent 395.8(a)	Discovered 0	Checked 102	Drivers/Vehicles In Violation	Checked 5
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#### Description

Failing to require driver to make a record of duty status.

#### Example

No violations of this were found outside the 150 air mile exemption in the state.

3 FEDERAL	Primary 395.8(a)	Discovered 9	Checked 48	Drivers/Vehicles In Violation	Checked 5
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#### Description

Failing to require driver to make a record of duty status

#### Example

On June 25, 2018 Kansas Ag Freight Company LLC dba KSAG Freight had driver Jamison Herr (KS CDL# [REDACTED]) operate a 2009 Peterbilt (VIN# [REDACTED] 778116) in combination with a 2007 Cimmaron trailer (VIN # [REDACTED] 314028). These vehicles have a gross vehicle weight rating of 52,000 lbs. and 65,000 lbs. Driver Jamison Herr operated in commerce on an interstate trip from Eldon, Missouri to Leroy, Kansas. This trip is evidenced by a bill of lading and a fuel receipt. At the time of this trip carrier was found to be in violation of failing to require driver to make a record of duty status.

4 FEDERAL	Primary 395.8(e)	Discovered 1	Checked 48	Drivers/Vehicles In Violation	Checked 5
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#### Description

False reports of records of duty status

#### Example

On June 12, 2018 Kansas Ag Freight Company LLC dba KSAG Freight had driver Jamison Herr (KS CDL# [REDACTED]) operate a 2001 Peterbilt (Unit # 2, VIN # [REDACTED] 570234) in combination with a 2007 Cimmaron trailer (VIN # [REDACTED] 314028). These vehicles have a gross vehicle weight rating of 50,000 lbs. and 65,000 lbs. Driver Jamison Herr operated in commerce on an interstate trip from Knippa, Texas to Scott City, Kansas. This trip is evidenced by a bill of lading and a fuel receipt. At the time of this trip carrier was found to be in violation of false reports of records of duty status.

5 STATE	Primary 395.8(e) CFR Equivalent 395.8(e)	Discovered 0	Checked 102	Drivers/Vehicles In Violation	Checked 5
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#### Description

False reports of records of duty status.

#### Example

No violations of this type were found in intrastate commerce.



Part B Violations	
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6 STATE	Primary 395 8(k)(1)	Discovered 0	Checked 102	Drivers/Vehicles	
	CFR Equivalent 395.8(k)(1)			In Violation 0	Checked 5

Failing to preserve driver's record of duty status for 6 months.

**Example**

No trips outside the 150 air-miles were found in intrastate

7 FEDERAL	Primary 395.8(k)(1)	Discovered 10	Checked 48	Drivers/Vehicles In Violation 1	Checked 5
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Failing to preserve driver's record of duty status for 6 months.

**Example**

On March 18, 2018 Kansas Ag Freight Company LLC dba KSAG Freight had driver Billy Adams (KS CDL# [REDACTED]) operate a 2000 Kenworth (Unit # 10, VIN # [REDACTED] 856095) in combination with a 2010 Merritt (Unit # 309, VIN # [REDACTED] 022007.) These vehicles have a gross vehicle weight rating of 50,000 lbs and 71,000 lbs. Driver Billy Adams operated in commerce on an interstate trip from Bristow, Oklahoma to Emporia, Kansas. This trip is evidenced by a level III roadside inspection performed by Trooper Askins (KS0096) with the Kansas Highway Patrol. At the time of this trip carrier was found to be in violation of failing to preserve driver's record of duty status for 6 months.

<b>Safety Fitness Rating Information:</b> <b>Total Miles Operated</b> 1,124,594 <b>Recordable Accidents</b> 0 <b>Recordable Accidents/Million Miles</b> 0.00		<b>OOS Vehicle (CR):</b> 0 <b>Number of Vehicle Inspected (CR):</b> 0 <b>OOS Vehicle (MCMIS):</b> 0 <b>Number of Vehicles Inspected (MCMIS):</b> 5	
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Your proposed safety rating is :  <div style="text-align: center; font-size: 24pt; font-weight: bold;">SATISFACTORY</div>	Rating Factors		Acute	Critical
	Factor 1:	S	0	0
	Factor 2:	S	0	0
	Factor 3:	S	0	0
	Factor 4:	S	0	0
	Factor 5:	N	0	0
	Factor 6:	S	-	-

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

	<b>KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)</b> U.S. DOT #: 2953435	Review Date 07/18/2018
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## Part B Requirements and/or Recommendations

1. 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.

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.

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

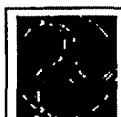
The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor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

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

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



	<b>KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)</b> U.S. DOT # 2953435	Review Date. 07/18/2018
<b>Part B Requirements and/or Recommendations</b>		

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. HOS COMPLIANCE BASIC PROCESS BREAKDOWN Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN:** Kansas Ag Freight Company LLC dba KSAG Freight violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. You need to develop a better methodology for ensuring that all drivers record complete and accurate records of duty status. It is incumbent upon the carrier to review all driver records of duty status reports and verify that they are correct and accurate. Monitor the time records continually in order to track the driver movements. Finally, verify the accuracy of their reports with supporting documents. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

**BASIC SPECIFIC RECOMMENDED REMEDIES:** Retrain all drivers on the hours of service regulations. When you switch over to ELD's make sure that drivers get the proper instructions and training on how to properly use the ELD's and how to use the Ag exemption when operating inside the 150 air-miles. Make sure that you retain all driver's hours of service records along with supporting documents for at least 6 months. Additionally, ensure that branch managers examine all logs for errors and issues. If you have any questions or needs, please don't hesitate to contact me.


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

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- 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.
- Document all findings of fatigue-related noncompliance with regulations and/or company policies.
- Systematically check to see if drivers and dispatchers are regularly communicating about Hours-of-Service (HOS) availability and driver-fatigue level.
- 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.
- Regularly evaluate the company's fatigue-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.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring drivers' Records of Duty Status (RODS) for accuracy; for whether they are applying performance standards fairly, consistently, and equitably, and for whether they are documenting evaluations.
- Consider using Electronic On-board Recorders (EOBRs) to monitor and track Hours-of-Service (HOS) violations.
- When monitoring and tracking any fatigue-related issues, always assess whether an issue is individual or represents a systemic breakdown in the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources:





	<b>KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)</b> U.S. DOT #. 2953435	Review Date 07/18/2018
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- 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. DRIVER FITNESS BASIC PROCESS BREAKDOWN. Monitoring and Tracking

**DESCRIPTION OF PROCESS BREAKDOWN** Kansas Ag Freight Company LLC dba KSAG Freight violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established organized driver qualification files for each CMV driver. That said, you need to develop a better methodology for ensuring that all drivers have the requisite paperwork in their individual files. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance.

**BASIC SPECIFIC RECOMMENDED REMEDIES** Make sure that when hiring a new driver you run the drivers motor vehicle report within 30 days and then retain that copy in the driver qualification file.


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

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

#### Seek Out Resources

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

5. 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

	<b>KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)</b> U.S DOT # 2953435	<b>Review Date</b> 07/18/2018
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could result in the suspension of Kansas Ag Freight Company LLC dba KSAG Freight operating authority and/or the impoundment of Kansas Ag Freight Company LLC dba KSAG Freight's commercial motor vehicles

\_\_\_\_\_  
Carrier Representative

\_\_\_\_\_  
Date





**KSAG FREIGHT (KANSAS AG FREIGHT COMPANY LLC dba)**  
U.S. DOT #: 2953435

**Review Date:**  
07/12/2018

**Part B Requirements and/or Recommendations**

5. 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 Kansas Ag Freight Company LLC dba KSAG Freight operating authority and/or the impoundment of Kansas Ag Freight Company LLC dba KSAG Freight's commercial motor vehicles.

  
Carrier Representative

7/12/18  
Date



## **ATTACHMENT “B”**

# Kansas Ag Freight Co. LLC

377 W. Hwy 50, Emporia, KS 66801  
620-794-4145

3879

Loading Point Knippa Tx Date 6-12-18

Shipper Arnold Address \_\_\_\_\_

Ship to HRC 3 Address Scott city Ks

Special Instructions \_\_\_\_\_

## Subject To Conditions of Uniform Bill of Lading

Number of Articles	Description of Shipment	Weight	Rate	Amount
90 hd WJ	cattle	44960		

Not Responsible for Livestock Crippled or Killed in Trucks.

Signature of Shipper/for Agent \_\_\_\_\_ Truck \_\_\_\_\_ Trailer \_\_\_\_\_ Received Above Property in Good Order

Driver [Signature] Date Delivered 7-10-18 Consignee/or Agent [Signature]

## **ATTACHMENT “C”**

# Kansas Ag Freight Co. LLC

377 W. Hwy 50, Emporia, KS 66801  
620-794-4145

3887

Loading Point Eldon mo

Date 6-25-18

Shipper \_\_\_\_\_ Address \_\_\_\_\_

Ship to Glue/Justin Altie Address LeRoy ks / Ottawa

Special Instructions \_\_\_\_\_

## Subject To Conditions of Uniform Bill of Lading

Number of Articles	Description of Shipment	Weight	Rate	Amount
93 hd				
86 hd				

Not Responsible for Livestock Crippled or Killed in Trucks.

Signature of Shipper/or Agent	Truck 818	Trailer 787	Received Above Property in Good Order
Driver <u>[Signature]</u>	Date Delivered		Consignee/or Agent



## **ATTACHMENT “D”**



# DRIVER/VEHICLE EXAMINATION REPORT

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: KSHP00962396  
Inspection Date: 03/18/2018  
Start: 5 41 PM CT End: 6 42 PM CT  
Inspection Level: III - Driver/Credential  
HM Inspection Type: None

KSAG FREIGHT  
[REDACTED]  
EMPORIA, KS, 66801  
USDOT: 2953435 Phone#: [REDACTED]  
MC/MX#: 000436 Fax#: [REDACTED]  
State#: [REDACTED]  
Location: BURLINGTON  
Highway: U75  
County: [REDACTED]

Driver: ADAMS JR, BILLY M  
License#: [REDACTED] State: KS  
Date of Bi [REDACTED]  
CoDriver: [REDACTED]  
License#: [REDACTED] State: [REDACTED]  
Date of Birth: [REDACTED]  
Milepost: 107 Shipper: N/A  
Origin: EMPORIA,KS  
Destination: GAS,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	2000	KS	[REDACTED]	10	[REDACTED]356095	50000			
2	ST	MER	2010	KS	[REDACTED]	309	[REDACTED]022007	71000			

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

## VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392 2-SLLS1	F	D	N		N	N	State/Local Laws - Speeding 1-5 miles per hour over the speed limit
392 2	F	D	N		N	N	Violation of Local Laws - Explain
395.3A2-PROP	F	D	Y		N	N	Driving beyond 14 hour duty period (Property carrying vehicle)
395.8E	F	D	Y		N	N	False report of drivers record of duty status
395 8F01	F	D	N		N	N	Drivers record of duty status not current

**HazMat:** No HM transported

**Placard:**

**Cargo Tank:**

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

**Notes:** Driver was stopped for speeding and signaling inconsistent with actions. Driver left the 150 air mileage ag exemption by going to Bristow, OK from Emporia, KS (178 air miles) Driver's log was left off at 500A on 3/18. I had driver catch up log in my presence Driver put himself in sleeper to 615P when traffic stop was made at 541P. Driver thought he was good on hours and seemed like company confused him as to what is legal. I took pics of logs.

\* Pursuant to the authority contained in Title 49, CFR, K.S.A. 66-1,129, K.C.C. Reg. 82-4-3, I hereby declare BILLY ADAMS JR "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until Such time that eligibility is re-established. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials \_\_\_\_\_

\* NOTE TO MECHANIC The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.  
Signature Of Repairer X \_\_\_\_\_ Facility \_\_\_\_\_ Date \_\_\_\_\_

\*\*\* DRIVER THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION \*\*\* \*\*/ \*\* CARRIER CERTIFICATION All defects on this sheet 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.  
Signature Of Motor Carrier X \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Report Prepared By. E. Akins  
Badge #. 0096

Copy Received By. BILLY ADAMS JR

X

X



## CERTIFICATE OF SERVICE

19-TRAM-107-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 09/26/2018.

CHRIS NOONAN, MANAGING MEMBER  
KANSAS AG FREIGHT COMPANY, LLC  
1840 E SOUTH AVE  
EMPORIA, KS 66801  
Fax: 620-341-9276  
kansasagfreight@gmail.com

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

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe