



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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

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

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
21-TRAM-322-PEN

March 4, 2021

Mark King, Managing Member  
KC Spray Foam & Coatings LLC  
15954 Mur-Len #302  
Olathe, KS 66062

This is a notice of a penalty assessment against KC Spray Foam & Coatings LLC (KC Spray Foam) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 11, 2021, by Kansas Corporation Commission Special Investigator Verna Jackson. Penalties are assessed in accordance with the FY 2021 Uniform Penalty Assessment Matrix, approved by the Commission on July 7, 2020. 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:** KC Spray Foam has been assessed a \$2,700 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$2,700, 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 KC Spray Foam 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).

**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. KC Spray Foam 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.<sup>1</sup>

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$2,700 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](mailto:a.latif@kcc.ks.gov)

<sup>1</sup> 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 **KC Spray**     )  
**Foam & Coatings LLC, of Olathe, KS,**     )  
Regarding the Violation(s) of the Motor Carrier     )  
Safety Statutes, Rules and Regulations and the     ) Docket No. 21-TRAM-322-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 66-1,108b, 66-1,111, 66-1,112g, and 66-1,115, 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. KC Spray Foam & Coatings LLC (KC Spray Foam or Carrier) operates under USDOT number 2393399.

5. KC Spray Foam is a private motor carrier which primarily hauls building materials, construction and insulation.

6. On October 9, 2019, Commission Staff (Staff) Special Investigator Wade Patterson conducted a safety compliance review of the operations of Carrier. As a result of this investigation, Special Investigator Patterson identified six (6) violations of the Motor Carrier Safety Regulations, and recommended civil penalties be assessed against the Carrier. On October 17, 2019, the Commission issued a Penalty Order against the Carrier in Docket No. 20-TRAM-172-PEN. The violations cited included:

- a. Failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129.
- b. Failure to inquire into its driver's motor vehicle record (MVR) at least once every 12 months and maintain a copy of the MVR in the driver qualification file;

- c. Failure to confirm that its driver is medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.41(a)(1)(i), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129.<sup>2</sup>

#### **IV. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on February 11, 2021, Commission Staff (Staff) Special Investigator Verna Jackson conducted a safety compliance review of the operations of KC Spray Foam. 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 November 17, 2020, KC Spray Foam required or permitted its driver, Ian Lockhouse, to operate a CDL-required commercial motor vehicle, a 2013 International 4300, VIN ending in 498975, GVWR 25,999 lbs., in interstate commerce from Olathe, Kansas to Kansas City, Missouri. This trip is evidenced by Mr. Lockhouse’s Time Sheet, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, KC Spray Foam failed to obtain and document a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The special investigator discovered two violations of this type. Further, this Carrier was cited for the same violation in a safety compliance review

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<sup>2</sup> Penalty Order, ¶ 6 Docket No. 20-TRAM-172-PEN (Oct. 17, 2019)

conducted on October 9, 2019. KC Spray Foam's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends an enhanced fine of \$1,500.

- b. During the transportation described in paragraph a., above, KC Spray Foam failed to require driver Ian Lockhouse to be medically examined and certified as physically fit to operate a commercial motor vehicle. This Carrier was cited for the same violation in a safety compliance review conducted on October 9, 2019. KC Spray Foam's failure to confirm that its driver is medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.41(a)(1)(i), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends an enhanced fine of \$500.
- c. During the transportation described in paragraph a., above, KC Spray Foam failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. This Carrier was cited for the same violation in a safety compliance review conducted on October 9, 2019. KC Spray Foam's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1),

adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,112. Staff recommends an enhanced fine of \$200.

- d. During the transportation described in paragraph a., above, KC Spray Foam failed to submit to the Kansas Corporation Commission a Corrective Action Plan (CAP) as required by Section D of the Penalty Order issued by the Commission on October 17, 2019. The Carrier's failure to submit a CAP within 30 days of the Penalty Order issued on October 17, 2019, is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,142b(h). Staff recommends a fine of \$250.
- e. During the transportation described in paragraph a., above, KC Spray Foam failed to attend a Commission-sponsored safety seminar as required by Section B of the Penalty Order issued by the Commission on October 17, 2019. The Carrier's failure to attend a Commission-sponsored safety seminar within 90 days of the Penalty Order issued on October 17, 2019, is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,142b(h). Staff recommends a fine of \$250.

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

8. Staff submitted a Report and Recommendation (R&R), dated February 25, 2021, attached hereto as Attachment C 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 KC Spray Foam 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 \$2,700 for five (5) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from KC Spray Foam 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).

12. Staff further recommends KC Spray Foam 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 KC Spray Foam 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 KC Spray Foam 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 KC Spray Foam 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. KC Spray Foam & Coatings LLC, of Olathe, KS is hereby assessed a \$2,700 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. KC Spray Foam 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. KC Spray Foam 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 KC Spray Foam'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. 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.<sup>3</sup>

G. If you do not request a hearing, the payment of the civil penalty of \$2,700 is due in thirty (30) days from the date of service of this Order. Payment of \$2,700 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 \$2,700 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 KC Spray Foam's motor carrier operating authority without further notice.<sup>4</sup> Additionally, the Commission may impose further sanctions to include, but not limited

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<sup>3</sup> K.S.A. 66-1,142b(e) and amendments thereto.

<sup>4</sup> K.S.A. 66-1,105.

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: 03/04/2021



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Lynn M. Retz  
Executive Director

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# **ATTACHMENT “A”**

# UNITED STATES DEPARTMENT OF TRANSPORTATION



**U.S. DOT#:** 2393399  
**MC/MX#:** 0

**Legal:** KC SPRAY FOAM & COATINGS LLC  
**Operating (DBA):**

**Investigation Date:**  
02/11/21

**Investigation Type:** Offsite Investigation

**Physical Address**

19942 W 162ND ST SUITE A  
OLATHE, KS 66062  
United States

**Mailing Address**

15954 Mur-Len #302  
Olathe, KS 66062  
United States

**Contact Information**

**Contact Name:** MARK KING  
**Email:** [REDACTED]  
**Phone:** [REDACTED] **Fax:** ( )-

**Business and Financial**

**Business Type:** Limited Liability Corporation  
**Gross Revenue:** [REDACTED] **For Year Ending:** 12/31/19  
**Federal Tax ID:** [REDACTED] (EIN)

**Operation Classification and Type**

**Type of Operation:** Non-HM Interstate Carrier, Non-HM Intrastate Carrier  
**Operation Classification**  
Private Motor Carrier  
Property – Non-Hazardous Materials

**Cargo**

Building Materials, Construction, Other (Insulation)

**Equipment**

	Owned	Term Leased	Trip Leased
Straight Trucks	2		

**Power units used in the U.S.:** 2  
**Percentage of time used in the U.S.:** 100%

**Driver Information**

Drivers	Intrastate	Interstate
< 100 Miles		1
>= 100 Miles		

**Average trip leased driver/month:** 0  
**Drivers with CDL:** 0  
**Total Drivers:** 1

**Person(s) Interviewed**

## 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:

Kansas Corporation Commission  
1500 SW Arrowhead Rd, Topeka, KS 66604  
Phone: (785) 271-3104  
Fax: (785) 271-3124

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

# Violations

## 1. Primary: 396.17(a)

Using a commercial motor vehicle not periodically inspected.

### Violations Discovered

Fed	State	Total
2		2

### Checked

Fed	State	Total
2		2

### Example/Notes:

Vehicle: 2013 International 4300, VIN [REDACTED] 498975, GVWR 25,999 License plate KS 510965

Date of trip: 11/17/2020

### Drivers/Vehicles

In Violation	Checked
2	2

## 2. Primary: 391.45(a)

## Secondary: 391.11(a)

Using a driver not medically examined and certified.

### Violations Discovered

Fed	State	Total
1		1

### Checked

Fed	State	Total
1		1

### Example/Notes:

Driver name: Ian Lockhouse

Trip date: 11/17/2020

KC Spray Foam & Coatings LLC used a driver not medically examined and certified. The medical certificates provided were dated 12/6/2017 expiring 12/6/2019, and 12/1/2020 expiring 12/1/2022. The driver was not medically examined and certified at the time of this trip.

### Drivers/Vehicles

In Violation	Checked
1	1

## 3. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

### Violations Discovered

Fed	State	Total
1		1

### Checked

Fed	State	Total
1		1

**Example/Notes:**

Driver name: Ian Lockhouse

Trip date: 11/17/2020

KC Spray Foam & Coatings LLC failed to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). The date of the MVR (12/4/2020) was after contact was made for this investigation. The 12/4/202 MVR was the only MVR provided.

**Drivers/Vehicles**

In Violation	Checked
1	1

**4. Primary: 391.51(b)(6)**

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

**Violations Discovered**

Fed	State	Total
1		1

**Checked**

Fed	State	Total
1		1

**Example/Notes:**

Driver name: Ian Lockhouse

Trip date: 11/17/2020

KC Spray Foam & Coatings LLC failed to maintain a list or certificate relating to violations of the motor vehicle laws and ordinances required by 391.27. The form provided was not signed and dated by the driver.

**Drivers/Vehicles**

In Violation	Checked
1	1

**5. Primary: 392.2**

**State Equivalent: KSA 66-1,142b(h)**

No corrective action plan received OR The corrective action plan provided did not address the measures or include documentation as required.

**Violations Discovered**

Fed	State	Total
	1	1

**Checked**

Fed	State	Total
	1	1

**Example/Notes:**

No corrective action plan was provided as required. The 10/17/2019 penalty assessment required the carrier to submit a written, comprehensive corrective action plan (CAP) to

**Drivers/Vehicles**

In Violation	Checked

Transportation Staff within thirty days of the date of the order.

1	1
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**6. Primary: 392.2**

**State Equivalent: KSA 66-1,142b(h)**

Motor carrier failed to attend a Commission sponsored safety seminar as stipulated in the penalty assessment.

**Violations Discovered**

Fed	State	Total
	1	1

**Checked**

Fed	State	Total
	1	1

**Example/Notes:**

A representative for KC Spray Foam & Coatings LLC failed to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the 10/17/2019 penalty assessment as required.

**Drivers/Vehicles**

In Violation	Checked
1	1



# Safety Fitness Rating

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## This Investigation is Not Rated

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

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

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### **BASIC: Driver Fitness**

#### **Process Breakdown: Monitoring and Tracking**

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KC Spray Foam & Coatings LLC failed to maintain a copy of the driver's driving record at least once every 12 months and used a driver not medically examined.

#### **Specific Recommended Remedies**

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

1. 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.
2. 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.

### **BASIC: Vehicle Maintenance**

#### **Process Breakdown: Monitoring and Tracking**

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KC Spray Foam & Coatings LLC failed to conduct annual vehicle inspections every 12 months.

#### **Specific Recommended Remedies**

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

1. Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.

# Recommendations

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1. **Additional Information**

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

2. **If you have any questions concerning this report, contact FMCSA.**

If you have any questions concerning this report, please contact the Kansas Corporation Commission, 1500 SW Arrowhead, Topeka, KS 66604, Phone 785-271-3104

3. **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 you safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

4. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

5. **Drivers may not drive interstate unless they have had a physical.**

Do not allow drivers to drive interstate unless they have been physically re-examined each 24 months.

6. **CMV Annual Inspection**

Ensure that all commercial motor vehicles, trailers as well as power units, have a current Annual Inspection as required by 396.17.

7. **CAP Requirement**

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

Email: [g.davenport@kcc.ks.gov](mailto:g.davenport@kcc.ks.gov)

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

8. **CAP Penalty**

Motor carriers are responsible for complying with all tasks ordered by the Commission. You are required to prepare a corrective action plan (CAP), addressing the measures taken to correct all the violations identified within this report. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

9. **Safety Seminar**

Motor carriers are responsible for complying with all tasks ordered by the Commission in its Penalty Order. In addition to paying any civil fines issued, you are also required to attend a Commission sponsored safety seminar. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

10. **Monetary penalties**

I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at this web site: [http://kcc.ks.gov/trans.penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans.penalty_assessment_table.htm)

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Carrier Name

Carrier Official

11. **Off-Site Acknowledgement**

I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. 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 KC Spray Foam & Coatings LLC's operating authority and/or the impoundment of KC Spray Foam & Coatings LLC's commercial motor vehicles.

\_\_\_\_\_

Carrier Representative

\_\_\_\_\_

Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.

## **ATTACHMENT “B”**

Time Entries

Timesheets Manual Time Card Time Slider

+ Add Time Actions

Search Ian Lockhouse My All

Month Today November 2020

Total: 169h 16m

Name	Time in - out ↓	Duration	Customer	Location	Attachments	Notes
^ Mon, Nov 30 9h 21m						
Ian Lockhouse	7:00am - 4:21pm	9h 21m	John CLaxton	iPhone App		Ks
^ Fri, Nov 27 9h 21m						
Ian Lockhouse	7:00am - 4:21pm	9h 21m	John CLaxton	iPhone App		Ks
^ Wed, Nov 25 8h 02m						
Ian Lockhouse	6:45am - 2:47pm	8h 02m	John CLaxton	iPhone App		Ks
^ Tue, Nov 24 10h 10m						
Ian Lockhouse	7:00am - 5:10pm	10h 10m	Randy Corns > Randy Corns-	iPhone App		Ks
^ Mon, Nov 23 11h 43m						
Ian Lockhouse	7:00am - 6:43pm	11h 43m	Randy Corns > Randy Corns-	iPhone App		Ks
^ Sat, Nov 21 4h 38m						
Ian Lockhouse	6:50am - 11:28am	4h 38m	Ashley Mendoza	iPhone App		Mo
^ Fri, Nov 20 8h 17m						
Ian Lockhouse	6:50am - 3:07pm	8h 17m	Alan Schaad	iPhone App		Ks
^ Thu, Nov 19 7h 56m						
Ian Lockhouse	6:47am - 2:43pm	7h 56m	Alan Schaad	iPhone App		Ks
^ Wed, Nov 18 8h 26m						
Ian Lockhouse	6:37am - 3:03pm	8h 26m	Ashley Mendoza	iPhone App		Mo
^ Tue, Nov 17 9h 03m						
Ian Lockhouse	6:46am - 3:49pm	9h 03m	Ashley Mendoza	iPhone App		Mo
^ Mon, Nov 16 9h 00m						

# **ATTACHMENT “C”**

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

Laura Kelly, Governor

**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:** February 25, 2021

**SUBJECT: Docket No. 21-TRAM-322-PEN**  
In the Matter of the Investigation of KC Spray Foam & Coatings LLC of Olathe, 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:**

KC Spray Foam & Coatings LLC (KC Spray Foam or Carrier) is a motor carrier possessing private operating authority from the Commission, primarily hauling building materials, construction and insulation. KC Spray Foam operates under USDOT 2393399. On February 11, 2021, Commission Staff Special Investigator Verna Jackson conducted a safety compliance review of the operations of KC Spray Foam. 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 \$2,700.

**DISCUSSION AND ANALYSIS:**

On February 11, 2021, Commission Staff Special Investigator Verna Jackson conducted a safety compliance review of the operations of KC Spray Foam. 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 November 17, 2020, KC Spray Foam required or permitted its driver, Ian Lockhause, to operate a CDL-required commercial motor vehicle, a 2013 International 4300, VIN ending in 498975, GVWR 25,999 lbs., in interstate commerce from Olathe, Kansas to Kansas City, Missouri. This trip is evidenced by Mr. Lockhause’s Time Sheet. At the time of this transportation, KC Spray Foam failed to obtain and document a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The special investigator



discovered two violations of this type. Further, this Carrier was cited for the same violation in a safety compliance review conducted on October 9, 2019. KC Spray Foam's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends an enhanced fine of \$1,500.

#### Violation Two (2 of 5)

During the transportation described in Violation One, above, KC Spray Foam failed to require driver Ian Lockhause to be medically examined and certified as physically fit to operate a commercial motor vehicle. This Carrier was cited for the same violation in a safety compliance review conducted on October 9, 2019. KC Spray Foam's failure to confirm that its driver is medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.41(a)(1)(i), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends an enhanced fine of \$500.

#### Violation Three (3 of 5)

During the transportation described in Violation One, above, KC Spray Foam failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. This Carrier was cited for the same violation in a safety compliance review conducted on October 9, 2019. KC Spray Foam's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,112. Staff recommends an enhanced fine of \$200.

#### Violation Four (4 of 5)

During the transportation described in Violation One, above, KC Spray Foam failed to submit to the Kansas Corporation Commission a Corrective Action Plan (CAP) as required by Section D of the Penalty Order issued by the Commission on October 17, 2019. The Carrier's failure to submit a CAP within 30 days of the Penalty Order issued on October 17, 2019, is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,142b(h). Staff recommends a fine of \$250.

#### Violation Five (5 of 5)

During the transportation described in Violation One, above, KC Spray Foam failed to attend a Commission-sponsored safety seminar as required by Section B of the Penalty Order issued by the Commission on October 17, 2019. The Carrier's failure to attend a Commission-sponsored safety seminar within 90 days of the Penalty Order issued on October 17, 2019, is a violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,142b(h). Staff recommends a fine of \$250.

### **RECOMMENDATION:**

Transportation Staff recommends the Commission find KC Spray Foam 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 \$2,700 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 KC Spray Foam 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](http://kcc.ks.gov/trans/safety_meetings.htm).

Staff further recommends KC Spray Foam 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 KC Spray Foam 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**

21-TRAM-322-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/hand delivered on 03/04/2021.

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/S/ DeeAnn Shupe

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DeeAnn Shupe