

# STATE OF KANSAS

20180927142708  
Kansas Corporation Commission

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

19-TRAM-113-PEN

September 27, 2018

Sean J. O'Brien, President  
SEK Ready Mix, Inc.  
PO Box 1084  
Coffeyville, KS 67337

This is a notice of a penalty assessment against SEK Ready Mix, Inc. (SEK Ready Mix) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 25, 2018, by Kansas Corporation Commission Special Investigator Michael Heenan. 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:** SEK Ready Mix has been assessed a \$350 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$350, 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 SEK Ready Mix 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. SEK Ready Mix 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 \$350 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

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

In the Matter of the Investigation of **SEK Ready** )  
**Mix, Inc., of Coffeyville, KS**, Regarding the )  
Violation of the Motor Carrier Safety Statutes, )  
Rules and Regulations and the Commission's ) Docket No. 19-TRAM-113-PEN  
Authority to Impose Penalties, Sanctions and/or )  
the Revocation of Motor Carrier Authority. )  
)

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:

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. SEK Ready Mix, Inc. (SEK Ready Mix) operates under USDOT number 2502005.

5. SEK Ready Mix owns six trucks and one trailer, and employs four CDL drivers.

6. SEK Ready Mix is a private motor carrier which primarily hauls concrete and powder.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 25, 2018, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of SEK Ready Mix. 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 two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On September 29, 2017, SEK Ready Mix required or permitted its driver, Joshua A. Mattes, to operate a CDL-required, commercial motor vehicle, a 2005 Sterling cement mixer truck tractor, VIN ending in 66753, GVWR greater than 33,000 lbs. in intrastate commerce in and around the area of

Coffeyville, Kansas. This trip is evidenced by Mr. Mattes' driving record, dated September 29, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, SEK Ready Mix failed to designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, SEK Ready Mix failed to obtain its driver's motor vehicle record (MVR) within 30 days of employment. The carrier's failure to obtain MVRs on its drivers within 30 days of employment and maintain the MVRs in the driver qualification files pursuant to 49 C.F.R. 391.51 is a violation of 49 C.F.R. 391.23(a)(1) and (b), adopted by K.A.R. 82-4-3g, 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 SEK Ready Mix committed two (2) 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 \$350 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from SEK Ready Mix 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 SEK Ready Mix 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 SEK Ready Mix because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds SEK Ready Mix committed two (2) 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. SEK Ready Mix, Inc., of Coffeyville, KS is hereby assessed a \$350 civil penalty for two (2) 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. SEK Ready Mix 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. SEK Ready Mix 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 SEK Ready Mix's right to a hearing, and this Penalty Order will become a Final Order assessing a \$350 civil penalty against

SEK Ready Mix, and ordering a representative from SEK Ready Mix 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 \$350 is due in thirty (30) days from the date of service of this Order. Payment of \$350 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 \$350 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 SEK Ready Mix'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: 09/27/2018


A handwritten signature in cursive script, reading "Lynn M. Retz".

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Lynn M. Retz  
Secretary to the Commission

AAL

## **ATTACHMENT “A”**

	<b>US DOT #</b> 2502005	<b>Legal:</b> SEK READY MIX, Inc. <b>Operating (DBA):</b>			
<b>MC/MX #:</b>		<b>Federal Tax ID</b> [REDACTED] <b>(EIN)</b>			
<b>Review Type:</b> Compliance Review (CR)					
<b>Scope:</b> Principal Office		<b>Location of Review/Audit:</b> Company facility in the U. S.			<b>Territory:</b> C
<b>Operation Types</b> Interstate Intrastate					
<b>Carrier:</b> Non-HM Non-HM <b>Shipper:</b> N/A N/A <b>Cargo Tank:</b> N/A		<b>Business:</b> Corporation <b>Gross Revenue:</b> [REDACTED] <b>for year ending:</b> 12/31/2017			
<b>Company Physical Address:</b> [REDACTED] COFFEYVILLE, KS 67337 <b>Contact Name:</b> Sean J OBrien <b>Phone numbers:</b> (1 [REDACTED]) <b>Fax</b> <b>E-Mail Address:</b> [REDACTED]					
<b>Company Mailing Address:</b> [REDACTED] COFFEYVILLE, KS 67337					
<b>Carrier Classification</b> Private Property					
<b>Cargo Classification</b> Other: concrete and powder					
<b>Equipment</b>					
	<b>Owned Term Leased Trip Leased</b>			<b>Owned Term Leased Trip Leased</b>	
Truck	6	0	0	Truck Tractor	1 0 0
Power units used in the U.S.: 7 Percentage of time used in the U.S.: 100					
<b>Does carrier transport placardable quantities of HM?</b> No <b>Is an HM Permit required?</b> N/A					
<b>Driver Information</b>					
	<b>Inter Intra</b>		<b>Average trip leased drivers/month:</b> 0		
< 100 Miles:	4		<b>Total Drivers:</b> 4		
>= 100 Miles:			<b>CDL Drivers:</b> 4		



SEK READY MIX  
U.S. DOT #: 2502005

Review Date:  
07/25/2018

**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:

Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Ks 66604-4027 785-271-3145

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

**Person(s) Interviewed**

Name: Sean J O'Brien

Title: President

Name: [REDACTED]

Title: Vice President





SEK READY MIX  
U.S. DOT #: 2502005

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### Part B Violations

1 STATE	Primary: 382.603 CFR Equivalent: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<b>Description</b> Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances. <b>Example</b> Driver name: Joshua A Mattes Trip date: 9/29/17 Supervisor/Company official not trained: Sean J O'Brien. At the time of this trip, and the time of this review, the above supervisor had no documentable supervisor training.					
2 STATE	Primary: 391.51(b)(2) CFR Equivalent: 391.51(b)(2)	Discovered 2	Checked 4	Drivers/Vehicles In Violation 2	Checked 4
<b>Description</b> Driver Investigation History file must contain a copy of the response by each State agency concerning a driver's driving record pursuant to §391.23(a)(1); <b>Example</b> Driver name: Joshua A Mattes Trip date: 9/29/17 At the time of this trip, and the time of this review, the carrier had 4 listed drivers with 2 being employed more than 1 year. The 2 drivers being Joshua A Mattes 2/18/16 Robin L Butler 2/5/16 These 2 drivers had no MVRs on their driving records within 30 days of hiring. The other 2 drivers, Michael Oneal 6/25/18 Larry D Tosh 7/9/18 These 2 drivers had not been employed 30 days at time time of this review and the carrier ran their MVRs on 7/18/18 which was well within the 30 days allotted. The date of the MVR was 7/18/18 that was provided by the carrier was notified of the review on 7/3/18					
3 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 2	Checked 4	Drivers/Vehicles In Violation 2	Checked 4
<b>Description</b> Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). <b>Example</b> Driver name: Joshua A Mattes Trip date: 9/29/17 At the time of this trip, and the time of this review, the carrier had 4 listed drivers with 2 being employed more than 1 year. The 2 drivers being Joshua A Mattes 2/18/16 Robin L Butler 2/5/16 These 2 drivers had no MVRs on their driving records at least every 12 months. The date of the MVR was 7/18/18 that was provided by the carrier was notified of the review on 7/3/18					





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### Part B Violations

4 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Driver name: Joshua A Mattes Trip date: 9/29/17 At the time of this trip, and the time of this review, the carrier had 4 listed drivers that had no annual review of drivers records in their driver files.					
5 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Driver name: Joshua A Mattes Trip date: 9/29/17 At the time of this trip, and the time of this review, the carrier had 4 listed drivers that had no certificate of violations in their driver files.					
6 STATE	Primary: 396.3(b)(1) CFR Equivalent: 396.3(b)(1)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
<b>Description</b> Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size. <b>Example</b> Company had 5 examined vehicles that had vehicle number only on their maintenance files that did not include the criteria in this part.					
7 STATE	Primary: 396.3(b)(2) CFR Equivalent: 396.3(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<b>Description</b> Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed. <b>Example</b> Company had 5 examined trucks that had no means of indicating the nature and due dates of maintenance to be performed on vehicles.					
<b>Safety Fitness Rating Information:</b> Total Miles Operated 30,000 Recordable Accidents 0 Recordable Accidents/Million Miles 0.00		OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0			





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### Part B Violations

Your proposed safety rating is :

**SATISFACTORY**

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.





SEK READY MIX  
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## Part B Requirements and/or Recommendations

1. Ensure reasonable suspicion training has been completed
2. Ensure all drivers are fully and properly qualified before operating in interstate /intrastate commerce. Maintain a complete file for each driver documenting the qualification process.
3. Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
4. 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. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>  
FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.  
For all Investigations that could result in a Notice of Claim:
    - PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty





**SEK READY MIX**  
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### **Part B Requirements and/or Recommendations**

proposed in any subsequent Notice of Claim. 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 Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record.

Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

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

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  
Jeff Ellett - Division Administrator  
Federal Motor Carrier Safety Administration  
1303 First American Place, Suite 200  
Topeka, KS 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:

385.16

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.16 (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:





**SEK READY MIX**  
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### Part B Requirements and/or Recommendations

US Department of Transportation  
Kansas Division  
Jeff Elliott – 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.

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

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

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd  
Topeka, KS 66604-4027

5. Formulate a plan to aid and educate drivers to better perform pre and post trip inspections. Educate drivers on what to look for and how to identify mechanical and inspection items that cause defects that could be instrumental to their safety on the road.

Develop maintenance plans and programs with your company or contracted mechanics to better assist them in the upkeep of company trucks and trailers.

Develop an incentive plan for drivers that would encourage them to identify safety issues and violations. Gift cards, cash incentives and bonuses, or dinner cards for a night out can be used. These items can be offered in response to roadside inspections with no safety or OOS violations.

6. For all investigations that did not result in a Cooperative Safety Plan:

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

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd  
Topeka, KS 66604-4027





SEK READY MIX  
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### Part B Requirements and/or Recommendations

7. "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 website:  
[http://kcc.ks.gov/trans/penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans/penalty_assessment_table.htm)"

Carrier Signature

Investigator Signature

8. Make certain that all vehicles that qualify as Commercial Motor Vehicles have a maintenance file that describes the vehicle by the make, model, year, VIN, tire size, unit number, and if the vehicle is leased or owned. Carrier needs to be certain that all repairs and parts are properly entered in the maintenance file as well as the receipts for such parts or repairs.
9. Make certain that all drivers of commercial motor vehicles have a record check of their driving record at least every 12 months and within 30 days of their initial employment.
10. 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.
11. Provide proof that the company supervisor listed below has been trained and certified with training on alcohol and drug abuse and provide this agency a copy of such certification.
12. 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 [SEK Ready Mix] operating authority and/or the impoundment of (SEK Ready Mix) vehicles.

Carrier Signature





SEK READY MIX  
U.S. DOT #: 2502005

Review Date:  
07/25/2018

**Part B Requirements and/or Recommendations**

Investigator Signature M.W. Zeman



## **ATTACHMENT “B”**

Joshua

	A	B	C	D	E	F
1	Day	Date	In	Lunch	Out	Total
2						
3	Monday	9-18-17	8:00	1/2 L	4:45	7.25
4	Tuesday	9-19-17	8:00	—	5:30	9.50
5	Wednesday	9-20-17	6:45	1/2 L	4:30	9.75
6	Thursday	9-21-17	7:00	1/2 L	3:00	7.50
7	Friday	9-22-17	8:00	1/2 L	4:00	8
8	Saturday	9-23-17				
9	Sunday					42.00
10						
11	Week Total					
12						
13						
14	Day	Date	In	Lunch	Out	Total
15						
16	Monday	9-25-17	8:15	1/2 L	5:00	8.25
17	Tuesday	9-26-17	7:30	—	12:45	5.25
18	Wednesday	9-27-17	8:00	—	12:15	4.25
19	Thursday	9-28-17	7:30	1/2 L	4:15	8.25
20	Friday	9-29-17	7:00	1/2 L	4:15	8.75
21	Saturday	9-30-17	6:30	<del>1/2 L</del>	1:00	6.5
22	Sunday					
23						
24	Week Total					41.25

**CERTIFICATE OF SERVICE**

19-TRAM-113-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 09/28/2018.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
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sekreadymix@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe