



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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<http://kcc.ks.gov/>

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
20-TRAM-008-PEN

July 11, 2019

Jesus N. Delgado, Owner
d/b/a Delgado Trucking
1020 E Iron
Salina, KS 67401

This is a notice of a penalty assessment against Jesus N. Delgado, d/b/a Delgado Trucking (Delgado Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 18, 2019, by Kansas Corporation Commission Special Investigator Gregory Askren. 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: Delgado Trucking has been assessed a \$1,350 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,350, 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 Delgado Trucking 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. 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. Delgado Trucking 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. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$1,350 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

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Jesus N.)**
Delgado, d/b/a Delgado Trucking, of Salina,)
KS, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 20-TRAM-008-PEN
and the Commission's Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). 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.A.R. 82-4-1b, 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.A.R. 82-4-1, 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. 2018 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. Jesus N. Delgado, d/b/a Delgado Trucking (Delgado Trucking) operates under USDOT number 1124771.

5. Delgado Trucking is a common motor carrier which operates interstate and intrastate and primarily hauls asphalt and gravel.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on June 18, 2019, Commission Staff (Staff) Special Investigator Gregory Askren conducted a safety compliance review of the operations of Delgado Trucking. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified five (5) violation(s) of the Motor Carrier Safety Regulations.

- a. On April 26, 2019, Delgado Trucking required or permitted its driver, Jesus N. Delgado, to operate a CDL-required commercial motor vehicle, a 1989 Kenworth, VIN ending in 524301, GVWR 33,000 lbs., in intrastate commerce in and around the area of Salina, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP00460216, dated

April 26, 2019, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Delgado Trucking had not paid the 2019 Uniform Carrier Registration (UCR) fees. The carrier’s failure to annually register its commercial motor vehicle(s) operating in interstate commerce and to pay the appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 2018 Supp. 66-1,139a and K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$300.

- b. During the transportation described in paragraph a, above, Delgado Trucking had not implemented an alcohol and controlled substance random testing program for its CDL driver. The carrier’s failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$350.
- c. During the transportation described in paragraph a, above, Delgado Trucking failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part

391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,112. Staff recommends a fine of \$100.

- d. During the transportation described in paragraph a, above, Delgado Trucking failed to maintain a maintenance file on the commercial motor vehicle operated. The carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$350.
- e. During the transportation described in paragraph a, above, Delgado Trucking failed to obtain and document a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The carrier'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. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

7. Based upon the available facts, Staff recommends the Commission finds Delgado Trucking 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.

8. Additionally, Staff recommends a civil penalty of \$1,350 for five (5) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

9. Staff further recommends that a representative from Delgado Trucking 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.

10. Finally, Staff recommends that Delgado Trucking 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

11. The Commission finds it has jurisdiction over Delgado Trucking because it is a motor carrier as defined in K.A.R. 82-4-1.

12. The Commission finds Delgado Trucking 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. Jesus N. Delgado, d/b/a Delgado Trucking, of Salina, KS is hereby assessed a \$1,350 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. Delgado Trucking 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.

D. Delgado Trucking 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. 2018 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 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 Delgado Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,350 civil penalty against Delgado Trucking, and ordering a representative from Delgado Trucking 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.

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. K.S.A. 2018 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,350 is due in thirty (30) days from the date of service of this Order. Payment of \$1,350 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.

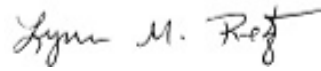
H. Failure to pay the \$1,350 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Delgado Trucking's motor carrier operating authority without further notice. 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.

I. 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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner



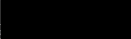


Dated: 07/11/2019

A handwritten signature in cursive script, appearing to read "Lynn M. Retz", is written above a horizontal line.

Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

	US DOT # 1124771	Legal: JESUS N DELGADO Operating (DBA):DELGADO TRUCKING	
MC/MX #:		Federal Tax ID:  (SSN)	
Review Type: Compliance Review (CR)			
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S. Territory: E	
Operation Types		Interstate Intrastate	
Carrier:	N/A	Non-HM	Business: Corporation
Shipper:	N/A	N/A	Gross Revenue:  for year ending: 12/31/2018
Cargo Tank:	N/A		
Company Physical Address:			
1020 E IRON SALINA, KS 67401			
Contact Name: Jesus N Delgado			
Phone numbers: (1) 			
E-Mail Address: 			
Company Mailing Address:			
1020 E IRON SALINA, KS 67401			
Carrier Classification			
Authorized for Hire			
Cargo Classification			
Other: Asphalt, gravel,			
Equipment			
	Owned	Term Leased	Trip Leased
Truck	1	0	0
Power units used in the U.S.: 1			
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: 1
>= 100 Miles:		1	CDL Drivers: 1





DELGADO TRUCKING (JESUS N DELGADO dba)
U.S. DOT #: 1124771

Review Date:
06/18/2019

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: JESUS N DELGADO

Title: OWNER/OPERATOR

Name: LILIANA ROQUE

Title: OFFICE MANGER



	DELGADO TRUCKING (JESUS N DELGADO dba)	Review Date:
	U.S. DOT #: 1124771	06/18/2019

Part B Violations

1 FEDERAL	Primary: 367.30	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
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Description

Fail to pay current years UCR and operating in interstate commerce.

Example

Driver - Jesus N Delgado

DOB - [REDACTED]

Ks. OL [REDACTED]

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN [REDACTED] 524301, Ks. Reg. 617819, GVWR 33,000 lbs.

Delgado Trucking is listed as interstate and failed to pay UCR fees until 4/24/2019 after several reminders.

2 FEDERAL	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
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Description

Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.

Example

Driver - Jesus N Delgado

DOB - [REDACTED]

Ks. OL [REDACTED]

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN [REDACTED] 524301, Ks. Reg. 617819, GVWR 33,000 lbs.

Delgado Trucking failed to have a drug/alcohol testing program.

3 STATE	Primary: 391.51(b)(1) CFR Equivalent: 391.51(b)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked 1 1
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Description

Failing to maintain driver's employment application in driver's qualification file.

Example

Driver - Jesus N Delgado


DOB - [REDACTED]

Ks. OL [REDACTED]

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN [REDACTED] 524301, Ks. Reg. 617819, GVWR 33,000 lbs. Delgado Trucking failed to have an employment application on file for Jesus N Delgado.



	DELGADO TRUCKING (JESUS N DELGADO dba) U.S. DOT #: 1124771	Review Date: 06/18/2019
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Part B Violations

4 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description


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

Driver - Jesus N Delgado

DOB - 

Ks. OL 

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN  524301, Ks. Reg. 617819, GVWR 33,000 lbs. Delgado Trucking failed to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

5 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).


Example

Driver - Jesus N Delgado

DOB - 

Ks. OL 

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN  524301, Ks. Reg. 617819, GVWR 33,000 lbs. Delgado Trucking failed to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

6 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

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

Example

Driver - Jesus N Delgado

DOB - 

Ks. OL 

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN  524301, Ks. Reg. 617819, GVWR 33,000 lbs. Delgado Trucking failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

7 STATE	Primary: 396.3(b) CFR Equivalent: 396.3(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to keep minimum records of inspection and vehicle maintenance.


Example

Driver - Jesus N Delgado

DOB - 


Ks. OL 

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN  524301, Ks. Reg. 617819, GVWR 33,000 lbs.

Delgado Trucking failed to have a maintenance file for his CMV.



	DELGADO TRUCKING (JESUS N DELGADO dba)	Review Date:
	U.S. DOT #: 1124771 .	06/18/2019

Part B Violations

8 FEDERAL	Primary: 396.9(d)(3)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier's principal place of business or where vehicle is housed.

Example

Delgado Trucking failed to keep roadside inspections on file for 12 months from the date of the roadside inspection. Last RSI was on 4/26/2019.

9 STATE	Primary: 396.17(c) CFR Equivalent: 396.17(c)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Using a commercial motor vehicle not periodically inspected in accordance with minimum standards.


Example

Driver - Jesus N Delgado

DOB - 

Ks. OL 

Date of trip - 4/26/2019

On an intrastate trip from Salina Ks to Salina Ks. driving a 1989 KW, VIN  24301, Ks. Reg. 617819, GVWR 33,000 lbs.

Delgado Trucking failed to have an annual inspection completed and be familiar with appendix. G. Jesus performs his own annual inspections.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	100,000	Number of Vehicle Inspected (CR): 0	
Recordable Accidents	0	OOS Vehicle (MCMIS): 0	
		Number of Vehicles Inspected (MCMIS): 1	

Your proposed safety rating is :

This Review is not Rated.



Part B Requirements and/or Recommendations

1. 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>

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

2. Maintain all completed CVSA roadside inspection forms on file for 12 months from the date of the inspection at the carrier's principal place of business.
3. Ensure that you have on file a mechanics certification from mechanics that conduct your annual inspections.
4. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. maintenance files must identify the vehicle by make, serial number, year, tire size, and carrier unit number.
5. Ensure that you give drivers a written drug policy and educational materials.
6. Ensure that all commercial motor vehicles, which would include trailers as well as power units, have a current Annual Inspection as required by 396.17. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify



Part B Requirements and/or Recommendations

the vehicle, the date of the inspection, and the name and address of the motor carrier or entity where the report is maintained.

7. CDL Drivers operating vehicles which meet the definition of a CDL commercial motor vehicle (CMV) SHALL have an equal chance of being tested each time selections are made. These drivers shall be in a pool of CDL drivers. Non-CDL drivers cannot be allowed in the same pool as the CDL drivers as the non-CDL drivers will take the opportunity for a random selection away from the CDL driver resulting in the CDL driver not having an equal chance of being tested each time selections are made.
8. Each motor carrier shall maintain a driver qualification (DQ) file for each driver it employs. A driver's qualification file may be combined with his/her personnel file. The DQ file must include: driver's application for employment completed in accordance with 391.21, a copy of the motor vehicle record received from each State within 30 days of the hire date pursuant to 391.23(a)(1); certificate of the driver's road test issued to the driver [391.31(e)] or a copy of the CDL license [391.33]; copy of the annual motor vehicle record received from each State agency [391.25(a)]; note relating to the annual review of the driver's driving record [391.25(c)(2)]; list or certificate relating to violations of motor vehicle laws and ordinances of the annual review of the driver's driving record [391.27]; copy of the medical examiner's certificate [391.43(g)]; a note relating to the verification of medical examiner listing on the National Registry of Certified Medical Examiners [391.23(m)]; and a Skill Performance Evaluation Certificate if applicable [391.49].
9. Ensure that you have in writing a means of indicating the nature and due date of various inspection and maintenance operations to be performed.
10. **VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Policies and Procedures**

DESCRIPTION OF PROCESS BREAKDOWN - Develop policy and maintain records on all CMV's.

BASIC SPECIFIC RECOMMENDED REMEDIES


Implement Safety Improvement Practices. The following are recommended practices related to Policies and Procedures.

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
- Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
- Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
- Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows vehicle maintenance violations.

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



	DELGADO TRUCKING (JESUS N DELGADO dba) U.S. DOT # 1124771	Review Date 06/18/2019
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the industry.

11. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - Insure that you are enrolled in a testing consortium and drivers are in the testing pool.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations.

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.

12. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - develop policy to include annual reviews of MVR's.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver



DELGADO TRUCKING (JESUS N DELGADO dba)

U.S. DOT #: 1124771

Review Date

06/18/2019

Part B Requirements and/or Recommendations

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

e-mail: g.davenport@kcc.ks.gov
Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

[Signature]
Carrier Representative

6/18/19
Date

Jesus N Delgado
Printed name and Title



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3 4

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: KSHP00460216
Inspection Date: 04/26/2019
Start: 1:45 PM CT **End:** 02:20 PM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

JESUS N DELGADO
 1020 E IRON
 SALINA, KS 67401
 USDOT#: 01124771
 MC/MX#: 00000000
 State#:

Phone#: [REDACTED]
Fax#:

Driver: DELGADO, JESUS N
License#: [REDACTED] **State:** KS
Date of Birth: [REDACTED]
CoDriver:
License#: **State:**
Date of Birth:

Location: SALINA
Highway: I-135 N/B
County:

MilePost: 91
Origin: SALINA,KS
Destination: SALINA,KS

Shipper: CARRIER
Bill of Lading: NO#
Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TR	KW	1989	KS	617819		[REDACTED] 524301	33,001			

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392 2RG	392 2RG	1	N		N	N	State vehicle registration or License Plate violation No license plate on the rear of the vehicle
393 11	393 11	1	N		N	N	No or defective lighting devices or reflective material as required No license plate lamp on the rear of the vehicle
393 9TS	393 9TS	1	N		N	N	Inoperative turn signal Left front turn signal inoperative.
392 16	392.16	D	N	E001904148	N	N	Failing to use seat belt while operating a CMV

HazMat: No HM Transported

Placard: No **Cargo Tank:**

Special Checks: Traffic Enforcement,

* 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 ***
 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

*CARRIER CERTIFICATION All defects on this sheet

Signature Of Motor Carrier X _____ Title _____ Date _____

Report Prepared By
 G K Smith

Badge #
 0046

Copy Received By
 JESUS DELGADO

Page 1 of 1



01124771 KS KSHP00460216

X _____

X _____

CERTIFICATE OF SERVICE

20-TRAM-008-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 07/12/2019.

JESUS N. DELGADO, OWNER
JESUS N. DELGADO
D/B/A DELGADO TRUCKING
1020 E IRON
SALINA, KS 67401
delgado.liliana@rocketmail.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