



1500 SW Arrowhead Road
Topeka, KS 66604-4027

Phone: 785-271-3100
Fax: 785-271-3354
<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-119-PEN

September 17, 2019

Greg Gathers, President
Custom Tree Care, Inc.
3722 SW Spring Creek Ln
Topeka, KS 66610

This is a notice of a penalty assessment against Custom Tree Care, Inc. (Custom Tree Care) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 21, 2019, by Kansas Corporation Commission Special Investigators Jared Smith and Verna Jackson. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. 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: Custom Tree Care has been assessed a \$2,500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$2,500, 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 Custom Tree Care 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. Custom Tree Care 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 \$2,500 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: Dwight D. Keen, Chair
Shari Feist Albrecht
Susan K. Duffy

PENALTY ORDER

I. 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. Custom Tree Care, Inc. (Custom Tree Care) has private operating authority with the Commission and further operates under USDOT number 1347949.

5. Custom Tree Care is a private motor carrier which primarily hauls tree debris.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on August 21, 2019, Commission Staff (Staff) Special Investigators Jared Smith and Verna Jackson conducted a safety compliance review of the operations of Custom Tree Care. 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 investigators identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On July 31, 2019, Custom Tree Care required or permitted its driver, Coby Garrett, to operate a CDL-required commercial motor vehicle, a 2001 Sterling, VIN ending in 53258, GVWR 60,000 lbs., in interstate commerce from Riverside, Missouri to Kansas City, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP01130907, dated July 31, 2019, a copy of which is attached hereto as Attachment "B" and is

hereby incorporated by reference. At the time of this transportation, Custom Tree Care had not paid its Unified Carrier Registration (UCR) fees for 2019. The carrier owns 13 commercial trucks. Custom Tree Care'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. 367.60, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 66-1,139a and K.S.A. 66-1,129. Staff recommends a fine of \$500.

- b. On May 9, 2019, Custom Tree Care required or permitted its driver, Nathan Altenhofen, to operate a CDL-required commercial motor vehicle, a 2001 Sterling, VIN ending in 53258, GVWR 60,000 lbs., in intrastate commerce from Shawnee, Kansas to Kansas City, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP01130826, dated May 9, 2019, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, Custom Tree Care had not ensured that each CDL driver subject to random alcohol and controlled substance testing had an equal chance at being selected each time selections were made. Driver Nathan Altenhofen was not on the random testing pool during this trip. This carrier was cited for the same violation in a safety compliance review conducted on February 21, 2018. Custom Tree Care's failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are

made is in violation of 49 C.F.R. 382.305(i)(2), adopted by K.A.R. 82-4-3c and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends an enhanced fine of \$2,000.

IV. STAFF'S RECOMMENDATIONS

7. Based upon the available facts, Staff recommends the Commission finds Custom Tree Care 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.

8. Additionally, Staff recommends a civil penalty of \$2,500 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

9. Staff further recommends that a representative from Custom Tree Care 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 Custom Tree Care 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 Custom Tree Care because it is a motor carrier as defined in K.A.R. 82-4-1.

12. The Commission finds Custom Tree Care 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. Custom Tree Care, Inc., of Topeka, KS is hereby assessed a \$2,500 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. Custom Tree Care 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. Custom Tree Care 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 Custom Tree Care's right to a hearing, and this Penalty Order will become a Final Order assessing a \$2,500 civil penalty against Custom Tree Care, and ordering a representative from Custom Tree Care 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 \$2,500 is due in thirty (30) days from the date of service of this Order. Payment of \$2,500 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 \$2,500 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 Custom Tree Care'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: 09/17/2019




Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

	US DOT # 1347949	Legal: CUSTOM TREE CARE INC Operating (DBA):		
MC/MX #:		Federal Tax ID:  (EIN)		
Review Type: Non-ratable Review - CSA				
Scope: Principal Office		Location of Review/Audit: CSA Off-site		Territory:
Operation Types Interstate Intrastate				
Carrier: HM HM Shipper: N/A N/A Cargo Tank: N/A		Business: Corporation Gross Revenue:  for year ending: 12/31/2018		
Company Physical Address: 3722 SW SPRING CREEK LN TOPEKA, KS 66610				
Contact Name: Greg Gathers Phone numbers: (1 ) E-Mail Address: 				
Company Mailing Address: 3722 SW SPRING CREEK LN TOPEKA, KS 66610				
Carrier Classification Private Property				
Cargo Classification Other Tree Debris				
Hazardous Materials 9 Miscellaneous HM : Carried : Non-Bulk				
Equipment				
	Owned	Term Leased	Trip Leased	Owned Term Leased Trip Leased
Truck	11	0	0	Truck Tractor 2 0 0
Trailer	5	0	0	
Power units used in the U.S.: 13 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 Total Drivers: 11 CDL Drivers: 6	
< 100 Miles:				
>= 100 Miles:	11			



	CUSTOM TREE CARE INC U.S. DOT # 1347949	Review Date: 08/21/2019
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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: Greg Gathers

Title: Owner

Name:

Title:



	CUSTOM TREE CARE INC	Review Date
	U.S. DOT # 1347949	08/21/2019

Part B Violations

1 FEDERAL	Primary. 367.	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
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Description

Failed to pay Unified Carrier Registration (UCR) fee when operating in Interstate Commerce.

Example

On July 31, 2019 Custom Tree Care Inc. had driver Coby Garrett (MO CDL# [REDACTED]) operate a 2001 Sterling (Unit # 258, VIN # [REDACTED] 53258). This vehicle has a gross vehicle weight rating of 60,000 lbs. Driver Coby Garrett operated in commerce on an interstate trip from Riverside, Missouri to Kansas City, Kansas. This trip is evidenced by a level II roadside inspection performed by R. Armitage ([REDACTED]) with the Kansas Highway Patrol. At the time of this trip and time of this review carrier was found to be in violation of failure to pay Unified Carrier Registration (UCR) fee.

2 STATE	Primary 382.305(i)(2)	Discovered 1	Checked 6	Drivers/Vehicles In Violation Checked
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Description

Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.

Example

On May 9, 2019 Custom Tree Care Inc. had driver Nathan Altenhofen (MO CDL# [REDACTED]) operate a 2001 Sterling (Unit # 258, VIN # [REDACTED] 53258). This vehicle has a gross vehicle weight rating of 60,000 lbs. Driver Nathan Altenhofen operated in commerce on an intrastate trip from Shawnee, Kansas to Kansas City, Kansas. This trip is evidenced by a level II roadside inspection performed by R. Armitage ([REDACTED]) with the Kansas Highway Patrol. At the time of this trip carrier was found to be in violation of failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made. Nathan Altenhofen was not in the random testing pool during this trip.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	45,000	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
		Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.



Safety Management Process Breakdowns and Remedies

1. FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012.

There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases, (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.

The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

2. For all Investigations:

- **Understand Why Compliance Saves Time and Money** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- **Document and Follow Through on Action Plans** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
- **NOTICE** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
- **NOTICE.** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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

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





CUSTOM TREE CARE INC
U.S. DOT # 1347949

Review Date:
08/21/2019

Safety Management Process Breakdowns and Remedies

<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.

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 plan, 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. Submit the letter along with copies of your supporting evidence to.

Email 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

3. Carrier is required to pay Unified Carrier Registration (UCR) fee when operating in Interstate commerce. Payment of UCR is available on your KTRAN account.

4. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN. Monitoring and Tracking


DESCRIPTION OF PROCESS BREAKDOWN: Custom Tree Care Inc. failed to ensure that all CDL operators were in the random selection pool. Driver Nathan Altenhofen was not in the random pool.

BASIC SPECIFIC RECOMMENDED REMEDIES. Implement an effective process for monitoring and tracking drivers in your random selection pool. Make sure that prior to operating commercial motor vehicles you add newly hired CDL operators to your random selection pool. Additionally make sure that when a CDL operator's employment is terminated that you remove them from the testing pool immediately.

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

- Evaluate personnel who are monitoring drivers against performance standards related to controlled-substance



	CUSTOM TREE CARE INC U.S. DOT # 1347949	Review Date: 08/21/2019
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Safety Management Process Breakdowns and Remedies

and alcohol regulations and company policies to ensure that they are applying standards fairly, consistently, and equitably, and are documenting evaluations.

- 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 controlled substances and alcohol. 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.
- Monitor and adjust the testing program to ensure proper annual driver sampling.
- Ensure that all test records are monitored for adherence to retention dates and nondisclosure requirements.
- Implement a system for keeping accurate records of controlled-substance and alcohol completed training needs and completed training, via software, checklist in the driver's file, and/or another appropriate method.
- Implement an effective process for monitoring and tracking drivers' removal from safety-sensitive functions and their return to duty according to controlled-substance and alcohol regulations and related company policies and procedures.
- Provide adequate oversight of all personnel hiring and training processes, including qualification of service agents, to ensure adherence to controlled-substance and alcohol regulations and company policies and procedures.
- Maintain the following documents to help evaluate the performance of all staff (drivers and managers) involved in controlled-substance and alcohol testing and the effectiveness of the policies and procedures: Motor Vehicle Record (MVR); records related to testing, the designated employer representative (DER), return to duty, and dispatch; lists of drivers removed due to a history of controlled-substance and/or alcohol misuse and those disqualified for personal driving under the influence (DUI); substance-abuse professional (SAP) letters, and for each test type, include selection criteria, the eligibility-pool list, and the statistical laboratory summary.
- Regularly evaluate the company's controlled-substance and alcohol-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with controlled-substance and alcohol regulations and company policies.
- When monitoring and tracking issues regarding controlled substances and alcohol use, always assess whether they are individual or represent a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources:

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

5. I acknowledge that 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 Custom Tree Care Inc 's operating authority and/or the impoundment of Custom Tree Care Inc's commercial motor vehicle.

Carrier Representative

Date

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



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
 MOTOR CARRIER SAFETY ASSISTANCE
 700 SW Jackson, Ste 704
 Topeka, KS 66603
 Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP01130907
 Inspection Date: 07/31/2019
 Start: 2:33 PM CT End: 3:30 PM CT
 Inspection Level: II - Walk-Around
 HM Inspection Type: Non-Bulk

CUSTOM TREE CARE INC
 3722 SW SPRING CREEK LN
 TOPEKA, KS, 66610

USDOT: 1347949

MC/MX#:

State#:

Location: WYANDOTTE COUNTY - 209

Highway: I-635

County:

Driver: GARRETT, COBY L

License#: [REDACTED]

Date of Birth: [REDACTED]

CoDriver:

License#:

Date of Birth:

State: MO

State:

Milepost: 6.5 Shipper: CARRIER

Origin: RIVERSIDE, MO

Destination: KANSAS CITY, KS

Bill of Lading: N/A

Cargo: UN1203, GASOLINE

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TR	STERL	2001	KS	167262	001	[REDACTED]	53258	60000		

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

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.16	F	D	N	E002168857	N	N	Failing to use seat belt while operating a CMV
391.41A-F	F	D	Y	E002168858	N	N	Operating a property-carrying vehicle without possessing a valid medical certificate.
392.2-SLLEWA2	F	D	N		N	N	State/Local Laws - Excessive weight - 2501-5000 lbs over on an axle/axle groups.
393.95A	F	1	N		N	N	No/discharged/unsecured fire extinguisher
392.2UCR	F	1	N		N	N	Failure to pay UCR Fee
393.47A	F	1	Y		U	N	Inadequate brakes for safe stopping

HazMat:

Placard: No

Cargo Tank:

Special Checks:

Alcohol/Controlled Substance Check
 Conducted by Local Jurisdiction
 X Size and Weight Enforcement
 eScreen Inspection

X Traffic Enforcement
 PASA Conducted Inspection
 Drug Interdiction Search

Post Crash Inspection
 PBBT Inspection

* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare the above marked unit(s) as "OUT OF SERVICE". No person and/or carrier shall permit and/or require the removal of the "OUT OF SERVICE" stickers or the operation of this motor vehicle until ALL out of service defects have been corrected. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials _____

* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare COBY GARRETT "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until: . This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials _____

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

**** DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. **** *CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

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

Report Prepared By: R. Armitage
 Badge #: 0113

Copy Received By: COBY GARRETT

X

X



ATTACHMENT “C”

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
 700 SW Jackson, Ste 704
 Topeka, KS 66603
 Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP01130826
Inspection Date: 05/09/2019
Start: 9:30 AM CT **End:** 10:00 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

CUSTOM TREE CARE INC
 3722 SW SPRING CREEK LN
 TOPEKA, KS, 66610

USDOT: 1347949

MC/MX#:

State#:

Location: WYANDOTTE COUNTY - 209

Highway: I-635

County:

Phone#:

Fax#:

Driver: ALTENHOFEN, NATHAN E

License#: [REDACTED]

Date of Birth: [REDACTED]

CoDriver:

License#:

Date of Birth:

State: MO

State:

Milepost: 3 **Shipper:** N/A

Origin: SHAWNEE, KS

Destination: KANSAS CITY, KS

Bill of Lading: N/A

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TR	STRG	2001	KS	167262	001	[REDACTED]	53258	60000		

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

VIOLATIONS: No violations were discovered

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks:

Alcohol/Controlled Substance Check

Conducted by Local Jurisdiction

X Size and Weight Enforcement

eScreen Inspection

Traffic Enforcement

PASA Conducted Inspection

Drug Interdiction Search

Post Crash Inspection

PBBT Inspection

* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

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

*** DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. *** CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

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

Report Prepared By: Badge #:

R. Armitage

0113

Copy Received By:

NATHAN ALTENHOFEN

X

X



CERTIFICATE OF SERVICE

20-TRAM-119-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 09/18/2019.

GREG GATHERS, PRESIDENT
CUSTOM TREE CARE, INC.
3722 SW SPRING CREEK LN
TOPEKA, KS 66610
Fax: 785-478-4195
ggathers@customtreecare.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