

NOTICE OF PENALTY ASSESSMENT
25-TRAM-200-PEN

December 10, 2024

Dennis Mendoza, Owner
Epic Excavating, LLC
21023 W 114th Terrace
Olathe, Kansas, 66061

This is a notice of a penalty assessment against Epic Excavating LLC (“Epic Excavating”) for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted October 23, 2024, by a Kansas Corporation Commission Special Investigator. Penalties are assessed in accordance with the FY 2025 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2024. 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: Epic Excavating has been assessed a \$3,400 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$3,400 through your personal account with the Kansas Corporation Commission’s Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Epic Excavating to attend a Commission-sponsored safety seminar within thirty (30) 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 attached Order further requires that Epic Excavating submit a written, comprehensive Corrective Action Plan (“CAP”) to Transportation Staff within thirty (30) days of the date of this order, documenting the violations described in this Penalty Order, including specific and detailed information explaining Carrier’s efforts and concrete steps taken to ensure the violations do not occur in the future.

Finally, the attached Order requires that Epic Excavating submit to one follow-up safety compliance review within eighteen (18) months from the date of this Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for a hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Epic Excavating 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 3,4000 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$3,400 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

¹ K.A.R. 82-1-215; K.S.A. 77-542.



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

Governor Jeff Colyer, M.D.

timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

/s/ Ahsan A. Latif

Ahsan A. Latif
Litigation Counsel
(785) 271-3118
ahsan.latif@ks.gov

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of **Epic**)
Excavating LLC, of Olathe, Kansas. Regarding)
the Violation(s) of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 25-TRAM-200-PEN
Commission’s Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor Carrier)
Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (“Commission”). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112 and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission’s jurisdiction and issue an order on the Commission’s own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

4. Epic Excavating (“Epic Excavating” or “Carrier”) is a motor carrier as defined in 49 C.F.R. 390.5 and operates under USDOT number 3835862.

5. On October 23, 2024, a Commission Transportation Staff (“Transportation Staff” or “Staff”) Special Investigator (“SI”) completed a safety compliance investigation of the operations of Epic Excavating. As a result of the compliance investigation, the SI identified twenty-five (25) violation(s), set forth in five (5) count(s), of the Motor Carrier Safety Regulations (“MCSRs”), which carries a penalty according to the FY2025 Uniform Penalty Assessment Matrix.²

6. On October 24, 2024, Transportation Staff submitted its Report and Recommendation (“R&R”), attached hereto as Attachment “A” and hereby incorporated by reference herein, recommending a penalty of \$3,400 to be issued to Epic Excavating based on the frequency, timeline, and severity of the violations discovered.

7. The Commission finds it has jurisdiction over Epic Excavating pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

8. Specifically, based on Staff’s R&R, the Commission finds that Epic Excavating committed twenty-five (25) violation(s) of the following five (5) count(s), discussed more fully in Staff’s R&R:

² Order Designating Guidance Document and Approving Staff’s Use of the Transportation Division’s Uniform Penalty Assessment Table, pp. 10 – 24 (June 27, 2024) (“Penalty Matrix”).

a. Count 1: On June 13, 2024, Epic Excavating was operating commercial motor vehicles in Kansas without first establishing an alcohol and controlled substance testing program, which resulted in one (1) violation(s) of 49 C.F.R. 382.115(a) and 49 C.F.R. 382.105, adopted by K.A.R. 82-4-3c and 49 C.F.R. Part 40, Subpart B, adopted by K.A.R. 82-4-3b. The Commission finds that Staff's recommendation of a penalty of \$650 is appropriate and in accordance with the current Penalty Matrix.

b. Count 2: On June 13, 2024, Epic Excavating was operating commercial motor vehicles in Kansas without first maintaining a driver qualification file for its drivers Manfredo Amaya Rosales and Ruben Astudillo Galvan, which resulted in two (2) violation(s) of 49 C.F.R. 391.51, adopted by K.A.R. 82-4-3g. The Commission finds that Staff's recommendation of a penalty of \$750 is appropriate and in accordance with the current Penalty Matrix.

c. Count 3: On June 13, 2024, Epic Excavating was operating commercial motor vehicles in Kansas without requiring its drivers to maintain a record of duty status. The SI found violations by eight violations for transports by Ruben Astudillo Galvan (June 5, 6, 7, 8, 9, 10, 11, and 12, 2024) and eight violations for transports by Manfredo Amaya Rosales (June 6, 7, 8, 9, 10, 11, 12, 13, 2024), which resulted in sixteen (16) violation(s) of 49 C.F.R. 395.8, adopted by K.A.R. 82-4-3a. The Commission finds that Staff's recommendation of a penalty of \$500 is appropriate and in accordance with the current Penalty Matrix.

d. Count 4: On June 13, 2024, Epic Excavating was operating commercial motor vehicles in Kansas without properly inspecting, repairing, and maintaining those commercial motor vehicles and maintaining required records of evidencing of such. The

Carrier did not provide evidence of any maintenance records for five (5) of its commercial motor vehicles, which resulted in five (5) violations(s) of 49 C.F.R. 396.3, adopted by K.A.R. 82-4-3j. The Commission finds that Staff’s recommendation of a penalty of \$750 is appropriate and in accordance with the current Penalty Matrix.

e. Count 5: On June 13, 2024, Epic Excavating was operating commercial motor vehicles in Kansas without first enrolling in the Federal Motor Carrier Safety Administration’s Drug and Alcohol Clearinghouse (“FMCSA DACH”), which resulted in one (1) violations(s) of 49 C.F.R. 382.711, adopted by K.A.R. 82-4-3c. The Commission finds that Staff’s recommendation of a penalty of \$750 is appropriate and in accordance with the current Penalty Matrix.

9. The Commission hereby adopts Staff’s findings as contained in its October 24, 2024 R&R. The Commission finds that Epic Excavating LLC has committed twenty-five (25) violation(s), set forth in five (5) count(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 (“K.A.R.s”), and is therefore subject to fines totaling \$3,400.

10. Accordingly, the Commission finds that Epic Excavating LLC is required to have a representative responsible for the Carrier’s safety compliance attend a Commission-sponsored safety seminar within thirty (30) days from the date of this Order, and provide Litigation Counsel with written proof of attendance within five days.³ 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.

³ See Staff’s Report and Recommendation, p.3 (Oct. 24, 2024).

11. The Commission further finds that Epic Excavating LLC is required to submit a written, comprehensive Corrective Action Plan (“CAP”) that is satisfactory to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier’s efforts and concrete steps taken to ensure the violation(s) do not occur in the future.⁴

12. Finally, the Commission finds that Epic Excavating LLC is required to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order at a time agreeable to Staff.⁵

13. Failure to comply with the requirements of this Penalty Order shall result in suspension of Epic Excavating LLC’s motor carrier operating authority without further notice.⁶

14. The Commission concludes the penalty of \$3,400 for the five (5) violations set forth above, and the additional four requirements set forth in paragraphs 9 through 12, are just and reasonable.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Epic Excavating LLC is hereby assessed a \$3,400 civil penalty for twenty-five (25) violation(s), set forth in five (5) count(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. Epic Excavating LLC is hereby ordered to have a representative responsible for the Carrier’s safety compliance attend a Commission-sponsored safety seminar within thirty (30) days

⁴ See Id.

⁵ See Id.

⁶ K.S.A. 66-1,105.

from the date of this Order, and is to timely provide Litigation Counsel with written proof of attendance within five (5) business days of completing the safety seminar.

C. Epic Excavating LLC is hereby ordered to submit a written, comprehensive corrective action plan (CAP) that is satisfactory to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Epic Excavating LLC is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order at a time agreeable to Staff.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 3,4000 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 Epic Excavating LLC's right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public

interest.⁷ For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation.⁸

G. If you do not request a hearing, the payment of the civil penalty of \$3,400 is due in thirty (30) days from the date of service of this Order. Payment of \$3,400 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure of Epic Excavating LLC to perform, pay or to fully comply with the provisions of this Order, including but not limited to Ordering Clauses A through D, above, will result in suspension of Epic Excavating LLC's motor carrier operating authority without further notice.⁹ 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.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 12/10/2024



Lynn M. Retz
Executive Director

AAL

⁷ K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

⁸ K.S.A. 66-1,142b(e) and amendments thereto.

⁹ K.S.A. 66-1,105.

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
TRANSPORTATION DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Jared Smith, Deputy Director of Transportation

DATE: October 24, 2024

SUBJECT: Docket No. 25-TRAM-200-PEN
In the Matter of the Investigation of **Epic Excavating LLC of Olathe, Kansas**
Regarding the Violation of the Motor Carrier Rules and Regulations and the
Commission’s Authority to Impose Penalties, Sanctions and/or the Revocation of
Motor Carrier Authority

EXECUTIVE SUMMARY:

Epic Excavating LLC (Epic Excavating) is a motor carrier (MC) primarily hauling machinery, construction, and large objects. Epic Excavating LLC operates under USDOT 3835862. On October 23, 2024, a Commission Staff Special Investigator (SI) completed a safety compliance investigation of the operations of Epic Excavating LLC. A copy of the safety compliance report is attached hereto as **Exhibit 1** and is hereby incorporated by reference. As a result of this investigation, the SI identified twenty-five (25) violations accounting for five (5) specific counts of the Motor Carrier Safety Regulations (MCSRs), which carries a penalty according to the FY2025 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline and severity of the violations discovered by the SI, staff recommends penalty of \$3,400 be issued to the MC.

DISCUSSION AND ANALYSIS:

On October 23, 2024, a Commission Staff SI conducted a safety compliance investigation of the operations of Epic Excavating LLC. The investigation covers a 365 day period and any previous compliance review. Each specific count is detailed below.

Count One: (1 of 5)

Authority: K.S.A. 66-1,111 and 66-1,129

Relevant Statutes: 49 C.F.R. 382.115(a) states: “All domestic-domiciled employers must implement the requirements of this part on the date the employer begins commercial motor vehicle operations.”

49 C.F.R. 382.105 states: “Each employer shall ensure that all alcohol or controlled substances testing conducted under this part complies with the procedures set forth in part 40 of this title. The provisions of part 40 of this title that address alcohol or controlled substances testing are made applicable to employers by this part.”

Material Facts and Supporting Documentation: On June 13, 2024, Epic Excavating LLC required or permitted its driver to operate a commercial driver’s license (CDL) required commercial motor vehicle (CMV), a 2015 Ram truck, VIN ending 6100, GVWR 19,500 lbs., pulling a 2023 trailer, VIN ending 1171, GVWR 24,000 lbs., in intrastate commerce from Kansas City, Kansas to Olathe, Kansas. This trip is evidenced by Driver/Vehicle Examination Report No. KSPD83971489, attached hereto as **Exhibit 2**.

At the time of this transport, the MC failed to implement an alcohol and controlled testing program that met the requirements of 49 C.F.R. 382.105 and 49 C.F.R. Part 40, Subpart B.

Violation: Epic Excavating failed to establish an alcohol and controlled substances testing program, which is a violation of 49 C.F.R. 382.115(a) and 49 C.F.R. 382.105, adopted by K.A.R. 82-4-3c and 49 C.F.R. Part 40, Subpart B, adopted by K.A.R. 82-4-3b (**Exhibit 1, Page 3**). One (1) violation was discovered (**Exhibit 1, Page 14**).

Recommendation: Staff recommends a fine of \$650, in accordance with the FY2025 Penalty Matrix.

Count Two: (2 of 5)

Authority: K.S.A. 66-1,111 and 66-1,129.

Relevant Statutes: 49 C.F.R. 391.51(a) states: “Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver’s qualification file may be combined with his/her personnel file.”

49 C.F.R. 391.51 (b) outlines the specific items that must be included in the driver qualification file.

Material Facts and Supporting Documentation: This violation took place on June 13, 2024, during the transport described in Count One, above.

At the time of this transport, the MC failed to maintain a driver qualification file on each driver that included the specific items listed at 49 C.F.R. 391.51(b). The MC did not provide a driver qualification file for drivers Manfredo Amaya Rosales or Ruben Astudillo Galvan.

Violation: Epic Excavating failed to maintain a driver qualification file on each driver employed, which is a violation of 49 C.F.R. 391.51, adopted by K.A.R. 82-4-3g (**Exhibit 1, Page 3**). Two (2) violations were discovered (**Exhibit 1, Page 14**).

Recommendation: Staff recommends a fine of \$750, in accordance with the FY2025 Penalty Matrix.

Count Three: (3 of 5)

Authority: K.S.A. 66-1,111 and 66-1,129.

Relevant Statutes: 49 C.F.R. 395.8(a) states: “Except for a private motor carrier of passengers (nonbusiness), as defined in § 390.5 of this subchapter, a motor carrier subject to the requirements of this part must require each driver used by the motor carrier to record the driver's duty status for each 24-hour period using the method prescribed in paragraphs (a)(1)(i) through (iii) of this section, as applicable.”

Material Facts and Supporting Documentation: This violation took place on June 13, 2024, during the transport described in Count One, above. The MC failed to provide any records of duty status to the SI. The SI found eight violations for driver Ruben Astudillo Galvan (June 5, 6, 7, 8, 9, 10, 11, and 12, 2024) and eight violations for Mandredo Amaya Rosales (June 6, 7, 8, 9, 10, 11, 12, 13, 2024), for a total of sixteen violations.

Violation: Epic Excavating failed to require its drivers to maintain a record of duty status, which is a violation of 49 C.F.R. 395.8, adopted by K.A.R. 82-4-3a (**Exhibit 1, Page 4**). Sixteen (16) violations discovered (**Exhibit 1, Pages 14 to 15**).

Recommendation: Staff recommends a fine of \$500, in accordance with the FY2025 Penalty Matrix.

Count Four: (4 of 5)

Authority: K.S.A. 66-1,111 and 66-1,129

Relevant Statutes: 49 C.F.R. 396.3(b) states: “Required records. Motor carriers, except for a private motor carrier of passengers (nonbusiness), must maintain, or cause to be maintained, records for each motor vehicle they control for 30 consecutive days. Intermodal equipment providers must maintain or cause to be maintained, records for each unit of intermodal equipment they tender or intend to tender to a motor carrier. These records must include:

(1) An identification of the vehicle including company number, if so marked, make, serial number, year, and tire size. In addition, if the motor vehicle is not owned by the motor carrier, the record shall identify the name of the person furnishing the vehicle;

(2) A means to indicate the nature and due date of the various inspection and maintenance operations to be performed;

(3) A record of inspection, repairs, and maintenance indicating their date and nature; and

(4) A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.”

Material Facts and Supporting Documentation: This violation took place on June 13, 2024, during the transport described in Count One, above.

The MC failed to provide the SI with any maintenance records or evidence of a maintenance policy or program for its fleet of vehicles. A copy of the vehicles reviewed as part of this investigation is attached as **Exhibit 3**. The MC operates five CMVs, a 2006 Ford truck, a 2015 Ram truck, a 2022 Ram truck, a 2018 Load trailer and a 2023 Ditch trailer, for a total of five violations.

Violation: Carrier failed to inspect, repair, and maintain commercial motor vehicles under its control and maintain required records of such, which is a violation of 49 C.F.R. 396.3, adopted by K.A.R. 82-4-3j (**Exhibit 1, Page 4**). Five (5) violations were discovered (**Exhibit 1, Page 14**).

Recommendation: Staff recommends a fine of \$750, in accordance with the FY2025 Penalty Matrix.

Count Five: (5 of 5)

Authority: K.S.A. 66-1,111 and 66-1,129.

Relevant Statutes: 49 C.F.R. 382.711(a) states: “Clearinghouse registration required. Each employer and service agent must register with the Clearinghouse before accessing or reporting information in the Clearinghouse.”

Material Facts and Supporting Documentation: This violation took place on June 13, 2024, during the transport described in Count One, above.

The MC failed to enroll in the FMCSA Drug and Alcohol Clearinghouse (DACH). A copy of the DACH search results is attached hereto as **Exhibit 4**. The SI searched for the MC using its USDOT number and returned no result.

Violation: Epic Excavating failed to register with the DACH, which is a violation of 49 C.F.R. 382.711, adopted by K.A.R. 82-4-3c (**Exhibit 1, Pages 4 to 5**). One violation was discovered (**Exhibit 1, Page 14**).

Recommendation: Staff recommends a fine of \$750, in accordance with the FY2025 Penalty Matrix.

RECOMMENDATION:

Transportation Staff recommends the Commission find Epic Excavating LLC committed twenty-five (25) violations, set forth in five (5) specific counts, of Kansas law that governs MCs, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations (K.A.R.s), and is therefore subject to sanctions or fines imposed by the Commission.

Due to the frequency, timeline and severity of the violations, Staff recommends a civil penalty of \$3400 for twenty-five (25) violations of the MC Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.


Staff further recommends Epic Excavating LLC require a representative responsible for the company’s safety to attend a Commission-sponsored safety seminar within thirty (30) days from the date of the Penalty 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.

Staff further recommends Epic Excavating LLC submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violations described in the Penalty Order, including specific and detailed information explaining the carrier’s efforts and concrete steps taken to ensure the violations do not occur in the future.

Finally, Staff recommends that Epic Excavating LLC submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

EXHIBIT 1

UNITED STATES DEPARTMENT OF TRANSPORTATION

	U.S. DOT#: 3835862 MC/MX#: 0	Legal: EPIC EXCAVATING LLC Operating (DBA):	Investigation Date: 10/23/2024
Investigation Type: Onsite Comprehensive Investigation		Location of Investigation: Company principal place of business (PPOB) Extent of Operations: Entire Operation	
Physical Address 21023 W 114TH TER OLATHE, KS 66061 United States		Mailing Address 21023 W 114TH TER OLATHE, KS 66061 United States	
Contact Information			
Contact Name: DENNIS MENDOZA Email: epicexcavating7@gmail.com Phone: (913)927-2454 Cell: (913)927-2454 Fax: ()-			
Business and Financial			
Business Type: Limited Liability Corporation Name of Gross Revenue Provider: Dennis Mendoza Title of Gross Revenue Provider: Owner Gross Revenue: ██████████ For Year Ending: 12/31/2023 Federal Tax ID: ██████████			
Operation Classification and Type		Cargo	
Type of Operation: Non-HM Interstate Carrier, HM Interstate Carrier Operation Classification Private Motor Carrier Property – Non-Hazardous Materials Property – Hazardous Materials		Machinery, Large Objects, Utility, Construction	
Hazardous Materials			
Which of the following hazardous materials requiring a Safety Permit does the company transport?		None	
Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E?		N/A	
Is an HM Permit required by any State?		No	
Hazardous Materials		Class 9 Miscellaneous Hazardous Materials = C, NB	

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Straight Trucks	7				Intrastate	Interstate
Trailers	6			< 100 Miles		5
Power units used in the U.S.: 7 Percentage of time used in the U.S.: 100%				>= 100 Miles		
				Average trip leased driver/month: 0 Drivers with CDL: 0 Total Drivers: 5		
Person(s) Interviewed						
Name: DENNIS MENDOZA				Title: OWNER		
Questions						
Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:				1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378		
This report will be used to assess your safety compliance.						

Violations

1. Primary: 382.115(a)

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



Acute

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

BASIC Impacted

Controlled Substances/Alcohol

Rating Factor 2:
Driver = Part 382

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier failed to implement an alcohol and/or drug testing program.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

2. Primary: 391.51(a)

Failing to maintain driver qualification file on each driver employed.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

BASIC Impacted

Driver Fitness

Rating Factor 2:
Driver = Part 391

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier failed to maintain a driver qualification file on each driver.

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

3. Primary: 392.2

State Equivalent: K.S.A. 8-2,125

Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

BASIC Impacted

Rating Factor 3:
Operational = Part 392

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier allowed drivers to operate CDL required commercial motor vehicles without having the appropriate license.

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

4. Primary: 395.8(a)(1)

Failing to require a driver to prepare a record of duty status using the appropriate method.

**Critical**

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	16	16

Checked

Fed	State	Total
	150	150

BASIC Impacted
Hours-of-Service
Compliance

Rating Factor 3:
Operational = Part
395

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier failed to record hours of service records using the appropriate method.

Drivers/Vehicles in Violation

Fed	State	Total
	2	2

Checked

Fed	State	Total
	5	5

5. Primary: 396.3(b)

Failing to keep minimum records of inspection and vehicle maintenance.

**Critical**

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
	5	5

Checked

Fed	State	Total
	5	5

BASIC Impacted
Vehicle Maintenance

Rating Factor 4:
Vehicle = Part 396

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier failed to provide maintenance files on either the truck or trailer.

Drivers/Vehicles in Violation

Fed	State	Total
	5	5

Checked

Fed	State	Total
	5	5

6. Primary: 382.711(b)

Failing to register in the Clearinghouse.

Violations Discovered

Fed	State	Total
-----	-------	-------

1		1
---	--	---

Checked

Fed	State	Total
1		1

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier failed to register in the Clearinghouse.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

7. Primary: 390.19T(a)(1)

Failing to file a Motor Carrier Identification Report, Form MCS-150 (Motor Carrier)

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

On 06/13/2024 Epic Excavating LLC had driver Manfredo Amaya Rosales operate a CDL required vehicle combination in intrastate commerce. Driver operated a 2015 Ram truck (VIN# ending 6100) and trailer (VIN# ending 1171) from Kansas City Kansas to Olathe Kansas. This trip is evidenced by a roadside inspection. At the time of this trip and during this investigation, carrier MCS-150 is outdated and they have been inactivated by the FMCSA.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

Safety Fitness Rating

Your proposed safety rating is: **UNSATISFACTORY** 2 or more UNSATISFACTORY rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Unsatisfactory	1	1
Factor 3: Operational = Parts 392 and 395	Unsatisfactory	0	2
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 2 Number of Vehicles Inspected (MCMIS): 3 OOS Rate: 66.7%	Unsatisfactory		1
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Satisfactory	0	0
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 75,000 Recordable Accidents: 1 Recordable Accidents/Million Miles: 13.33	Satisfactory	N/A	N/A

Effective date: You will receive an official notice of proposed safety rating from the Federal Motor Carrier Safety Administration in Washington, D.C. The Unsatisfactory rating will take effect 60 days after the date of the official notice.

PROHIBITION: Under 49 USC 31144(c) and 49 CFR 385.13, a motor carrier that receives a final Unsatisfactory safety rating is prohibited from operating a commercial motor vehicle in interstate and intrastate commerce. If applicable, the motor carrier shall have its operating authority registration revoked under 49 USC 13905(f)(1)(B).

You may request a safety rating upgrade based on corrective action under 49 CFR 385.17 and/or an administrative review under 49 CFR 385.15.

Change to safety rating based on corrective action: You may request a change to a safety rating under 49 CFR 385.17 at any time by providing evidence that you have taken actions to correct the deficiencies that resulted in the safety rating. You must make this request in writing to the Field Administrator for the FMCSA Service Center in which you maintain your principal place of business. A pending request for a change in safety rating under 49 CFR 385.17 will not delay the effective date of the rating.

Administrative Review: You may appeal your proposed safety rating in a petition filed under 49 CFR 385.15 if you believe FMCSA made an error in assigning your safety rating. You must submit your appeal within 90 days of the date of the proposed safety rating or within 90 days after denial of a request for a change in rating under section 385.17(i).

You should submit your appeal within 15 days of the date of the official safety rating notice to allow FMCSA to issue a written decision before the prohibitions in 49 CFR 385.13 take effect. A petition under section 385.15 will not delay the effective date of the rating unless the Chief Safety Officer grants a stay.

You must submit your appeal in writing to: Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Crash Indicator

Process Breakdown: Roles and Responsibilities

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Identify, clearly define, and document role of managers and supervisors for implementing safe-driving policies and practices, and monitoring compliance in accordance with regulatory reporting and company policies and procedures.

BASIC: Unsafe Driving

Process Breakdown: Qualification and Hiring

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Qualification and Hiring:

1. Ensure that prospective drivers will drive safely by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding drivers' safety performance going back three years. Create a detailed written record of each inquiry.

BASIC: Hours-of-Service Compliance

Process Breakdown: Qualification and Hiring

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Qualification and Hiring:

1. Ensure that whoever is responsible for monitoring and tracking Hours of Service (HOS) knows the relevant regulations, how the carrier/dispatcher operates, the company's disciplinary policy and procedures, and how to use supporting documents such as toll and fuel receipts to see if data are accurate.

BASIC: Vehicle Maintenance

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. 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.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Policies and Procedures

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. 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.

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Specific Recommended Remedies

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

1. Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.

BASIC: Driver Fitness

Process Breakdown: Qualification and Hiring

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Qualification and Hiring:

1. Ensure that drivers are qualified by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding driver fitness, such as those pertaining to previous violations, Commercial Driver's License (CDL), medical qualifications, operational qualifications from training, and relevant experience.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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.

2. **Additional Information**

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

3. **Obtain copies of the regulations, forms, interpretations, manuals.**

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm

4. **CDL and drug testing rules apply.**

Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.

5. **Establish a maintenance records program for all vehicles.**

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.

6. **Clearinghouse Annual Query**

Ensure annual queries are conducted in the Clearinghouse at least once per year. You may conduct a full or limited query to fulfill this requirement.

7. **Require drivers to prepare complete and accurate records.**

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.

8. **Duty status records must be kept on file for 6 months.**

Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.

9. **SMS website**

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review you safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

10. **MCS-150 biennial updates**

Is Your Registration Information Current?

FMCSA requires carriers to update their registration data via a MCS-150 form every 24 months. Please review, verify and update your contact information, Vehicle Miles Travelled (VMT) and Power Unit (PU) data to ensure that it is current and accurate, since it is used in the new Carrier Safety Measurement System. You should access the system, review all the information and press the submit button. Once you've done this, the system will record that you've reviewed the information and you will be in compliance with the biennial update requirement.

https://li-public.fmcsa.dot.gov/LIVIEW/PKG_REGISTRATION.prc_option

11. **Conduct periodic internal reviews. (HM)**

Conduct periodic internal reviews of your maintenance, hazardous materials handling, driver qualification, hours of service control, accident reporting, training, and other safety systems to ensure continued compliance.

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

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

13. **UCR (Unified Carrier Registration)**
The UCR Application form can be obtained from <https://www.ucr.in.gov>.
14. **Clearinghouse Registration - Employer**
Ensure you are registered in the Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.
15. **Reporting violations into the Clearinghouse**
Ensure violations are entered into the Clearinghouse within the required time frame. The type of violation and time frame may be found in 49 CFR 382.705(b) of the Federal Motor Carrier Safety Regulations.
16. **Ensure that all drivers' logs are accurate.**
Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.
17. **Drivers may not drive interstate unless they have had a physical.**
Do not allow drivers to drive interstate unless they have been physically re-examined each 24 months.
18. **Retain supporting documents for 6 months.**
Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.
19. **Part 40 Violations**
Ensure that your drug and alcohol testing program conforms with all applicable parts of Part 40.
20. **Clearinghouse Driver Consent**
Ensure driver consent has been obtained and is on file before conducting a limited query.
21. **Drug and Alcohol Testing Company Policy (Educational Materials)**
Provide employees with a written controlled substance and alcohol testing policy that complies with all the requirements noted in Part 382.601(b). Also, ensure you maintain a certificate signed by the employee certifying they have received your company drug and alcohol testing policy.
22. **New Hires**
Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.
23. **Maintain a complete file documenting the qualification process.**
Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.
24. **150-mile exemption terms must be met.**
If you want some drivers to use the 150 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 14 hours from when they report for duty. Logs must be prepared if a driver does not meet the 14 hour requirement.
25. **Drug and Alcohol Clearinghouse**
Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.
26. **Clearinghouse Pre-employment Query**
Ensure pre-employment (full) queries are conducted in the Clearinghouse before hiring a driver to perform a safety sensitive function.
27. **Reporting Return to Duty information into the Clearinghouse**
Ensure that the negative return to duty test result is reported in the Clearinghouse by the end of the third business day after receiving the information.

28. For All Investigations Penalty

MANDATORY FOLLOW UP REQUIRMENTS (ALL INVESTIGATIONS THAT RESULT IN PENALTY)

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

Email: jared.L.Smith@ks.gov

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Jared Smith

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

2) The KCC requires a representative from Epic Excavating LLC to attend a Commission-sponsored safety seminar within thirty (30) days from the date of the penalty order. Schedule of the dates for safety seminars can be found on the Commission s website at <https://www.kcc.ks.gov/transportation/calendar-of-events>.

FAILURE TO SUBMIT THE CORRECTIVE ACTION PLAN (CAP) AND ATTEND A SAFETY SEMINAR WITHIN 30 DAYS WILL RESULT IN THE SUSPENSION OF EPIC EXCAVATING LLC'S OPERATING AUTHORITY AND/OR THE IMPOUNDEMENT OF EPIC EXCAVATING LLC'S VEHILCES.

I understand that these requirements/violations and/or recommendations have been discussed with me and my questions have been answered. I understand that monetary penalties will be assessed as a result of violations found in this compliance review.

Signed _____ Date _____

29. Conditional - Unsatisfactory

UNSATISFACTORY & CONDITIONAL

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. Apply Adequate Resources: Apply adequate resources to properly implement safety management practices. Consider reallocating responsibilities, additional staffing, contracting, or investing in technology to aid in this responsibility. 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 C.F.R. Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substance history from all employers the driver worked for within the previous three 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 is a screening tool that assists 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. Motor carriers should visit the following website for more information:

FMCSA Carrier Safety Measurement System (SMS) is based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. SMS effectively identifies and prioritize high risk and other unsafe motor carriers for enforcement interventions and is designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview their companies SMS information.. The data preview may be found at <http://csa.fmcsa.dot.gov/>.

For all Investigations resulting in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (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
Matthew Marrin - Midwestern Field Administrator Federal Motor Carrier Safety Administration 600 Holiday Plaza Dr, Suite 240
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation Kansas Division
Michael Christopher - Acting 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. Information on your compliance status, roadside inspections, regulatory changes, accident counter measures and hazardous material counter measures 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/>. For all Investigations that did not result in a Cooperative Safety Plan:

Table 1: Violations Discovered During Review/Inspection

Violation	Date	Identifying Information	Description
382.115(a) - Failing to implement an alcohol and/or drug testing program			
1	06/13/2024	Driver: MANFREDO AMAYAROSALES	
382.711(b) - Failing to register in the Clearinghouse.			
1	06/13/2024	Driver: MANFREDO AMAYAROSALES	
390.19T(a)(1) - Failing to file MCS-150 (Motor Carrier)			
1	06/13/2024	MANFREDO AMAYAROSALES	
391.51(a) - Failing to maintain driver qual. file on each driver			
1	06/13/2024	Driver: MANFREDO AMAYAROSALES	
2	06/12/2024	Driver: RUBEN ASTUDILLOGALVAN	
392.2 - Operating vehicle in violation of local/State laws			
1	06/12/2024	RUBEN ASTUDILLOGALVAN	
2	06/13/2024	MANFREDO AMAYAROSALES	
396.3(b) - Failing to keep minimum records of inspection and maintenance			
1	06/12/2024	Equipment: RUBEN ASTUDILLOGALVAN	
2	06/12/2024	Equipment: RUBEN ASTUDILLOGALVAN	
3	06/13/2024	Equipment: MANFREDO AMAYAROSALES	
4	06/13/2024	Equipment: MANFREDO AMAYAROSALES	
5	11/13/2023	Equipment: JOSUE HUERECA	
395.8(a)(1) - Failing to require a driver to prepare a RODS using the appropriate method			
1	06/05/2024	RUBEN ASTUDILLOGALVAN	
2	06/06/2024	RUBEN ASTUDILLOGALVAN	
3	06/07/2024	RUBEN ASTUDILLOGALVAN	
4	06/08/2024	RUBEN ASTUDILLOGALVAN	
5	06/09/2024	RUBEN ASTUDILLOGALVAN	
6	06/10/2024	RUBEN ASTUDILLOGALVAN	
7	06/11/2024	RUBEN ASTUDILLOGALVAN	
8	06/12/2024	RUBEN ASTUDILLOGALVAN	
9	06/06/2024	MANFREDO AMAYAROSALES	
10	06/07/2024	MANFREDO AMAYAROSALES	
11	06/08/2024	MANFREDO AMAYAROSALES	
12	06/09/2024	MANFREDO AMAYAROSALES	
13	06/10/2024	MANFREDO AMAYAROSALES	

14	06/11/2024	MANFREDO AMAYAROSALES	
15	06/12/2024	MANFREDO AMAYAROSALES	
16	06/13/2024	MANFREDO AMAYAROSALES	

EXHIBIT 2

DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSPD83971489
Inspection Date: 06/13/2024
Start: 8:20 AM CT End: 9:20 AM CT
Inspection Level: I - Full
HM Inspection Type: None

Carrier: EPIC EXCAVATING LLC

DBA:
 21023 W 114TH TER
 OLATHE, KS, 66061
USDOT: 3835862 **Phone#: (913)927-2454**
MC/MX#: **Fax#:**
State#:

Driver: AMAYA ROSALES, MANFREDO D
License#: [REDACTED] **State: MA**
Date of Birth: [REDACTED]
CoDriver:
License#: **State:**
Date of Birth:

Location: JOHNSON COUNTY - 091 **Milepost:** **Shipper: SAME AS CARRIER**
Highway: OLD 56 HWY / S ENTERPRISE **Origin: KANSAS CITY,KS** **Bill of Lading: NONE**
County: **Destination: OLATHE,KS** **Cargo: MISC TOOLS**
Email:

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TR	RAM	2015	KS	[REDACTED]	7	[REDACTED]	6100 19500			166360
2	ST	DITC	2023	KS	[REDACTED]	NONE	[REDACTED]	1171 24000			166361

BRAKE ADJUSTMENTS

Axle #	1	2	3	4
Right	N/A	N/A	N/A	N/A
Left	N/A	N/A	N/A	N/A
Chamber	HYDR	HYDR	ELEC	ELEC

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.2-ML	F	D	N		N	N	Failure to Maintain Lane: Driver failed to maintain his lane on southbound I35 Hwy, north of 56 Hwy. Was half in his lane, half on the shoulder of the Interstate.
383.23A2	F	D	Y	24T130713.1	N	N	Operating a CMV without a CDL: Operating a CMV without a CDL on 6/13/2024. Driver required to have a valid Class A CDL for current configuration. Driver only has a valid Class D Non-CDL through
391.41A1-NPH	F	D	N	24T130713.2	N	N	Operating a property-carrying vehicle without possessing a valid medical certificate - no previous history.: Driver admission - Stated that he does not have a medical card.
392.8	F	D	N		N	N	Failing to inspect/use emergency equipment: Driver did not check / inspect emergency equipment
392.9BA-INACTIVE	F	1	Y		U	N	USDOT REGISTRATION REQUIRED. Operating a commercial motor vehicle in interstate commerce without an active USDOT number.: Inactive USDOT Number per 49 CFR 390.19(b)(4): Biennial update of MCS-150 data not completed.
390.19B2-BIENNIAL	F	1	N	24T130713.4	N	N	Motor Carrier failed to file biennial FMCSA registration update as required.: Carrier has not updated their biennial FMCSA registration. Last update was 03/05/2022
390.21TB	F	1	N	24T130713.5	N	N	Carrier name and/or USDOT Number not displayed as required: Side of truck displays "EPIC EXCAVATING" and must read "EPIC EXCAVATING LLC" as listed on MCS-150. No DBA listed.
396.17C	F	1	N		N	N	Operating a CMV without proof of a periodic inspection: No proof of inspection located on truck or provided by driver.
393.95A	F	1	N		N	N	No/discharged/unsecured fire extinguisher: No fire extinguisher located in/on truck.
393.11	F	1	N		N	N	No or defective lighting devices or reflective material as required: Truck not equipped with a license plate illumination lamp or Rear ID lamps.
396.9D2	F	1	N	24T130713.4	N	N	Failure to correct defects noted on previous inspection report: Biennial MCS-150 Update / USDOT markings as noted on previous inspection KSPD83971487.
396.17C	F	2	N		N	N	Operating a CMV without proof of a periodic inspection: No proof of inspection located on trailer or provided by driver.
393.9TS	F	2	Y	24T130713.6	U	N	Inoperative turn signal: LEFT turn signal INOP
393.9TS	F	2	Y		U	N	Inoperative turn signal: RIGHT turn signal INOP
393.9BRKLAMP	F	2	Y		U	N	Inoperative Brake Lamps: BOTH brake lamp INOP
393.9	F	2	N		N	N	Inoperable Required Lamp: All ID / All Clearance / License plate illumination lamp / LEFT 4-way flasher INOP
393.9T	F	2	N		N	N	Inoperable tail lamp: Both tail lamps INOP



DRIVER/VEHICLE EXAMINATION REPORT

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSPD83971489
Inspection Date: 06/13/2024
Start: 8:20 AM CT End: 9:20 AM CT
Inspection Level: I - Full
HM Inspection Type: None

HazMat: No HM transported

Placard:

Cargo Tank:

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

Notes: Vehicle was stopped for an inspection as I could see the trailer turn signals and brake lamps were not working as I followed the vehicle. GVWR of both the truck and trailer located on factory VIN stickers. Driver looked through the truck and was not able to locate a fire extinguisher. Driver knew the trailer was not roadworthy as he stated that he was taking the trailer in for repairs on the lights. This carrier has a history of allowing drivers without a drivers license or appropriate drivers license to operate their vehicles. I stopped this carrier yesterday and placed them OOS for a multiple reasons. The owner of the company even came out to the stop location. He was cited for allowing someone without a drivers license to operate his vehicles on that day. Even after being cited, the owner continues to allow this to occur. Driver was aware of the USDOT marking violations and I explained to him how to fix this issue, by adding a DBA on his MCS-150 when he updated it. It needed updated as it is out of date. The carriers USDOT number showed to be INACTIVE in Query Central due to the biennial update not being completed. The driver was escorted around the corner to DitchWitch where he and the truck were placed OOS. Photos taken and stored locally.

* 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 MANFREDO AMAYA ROSALES "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until: Obtains a Class A CDL. 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: ID/Badge #:
M. Misemer 8397

Copy Received By:
MANFREDO AMAYA ROSALES

X

X



EXHIBIT 3

Unit	Configuration	VIN	Plate	Leased/Owned	ELD/AOBRD	Sample Dates
1	Straight Trucks Year: 2006 Make: Ford Model: GVWR: 16000	██████████9412	KS-██████████		Name: Model: Year: 0	-
2	Trailers Year: 2018 Make: Load Model: GVWR: 14000	██████████0490	KS-██████████		Name: Model: Year:	-
2	Trailers Year: 2023 Make: Ditch Model: GVWR: 24000	██████████1171	KS-██████████		Name: Model: Year:	-
7	Straight Trucks Year: 2015 Make: Ram Model: GVWR: 19500	██████████6100	KS-██████████		Name: Model: Year:	-
T2	Straight Trucks Year: 2022 Make: Ram Model: GVWR: 14000	██████████9965	KS-██████████		Name: Model: Year:	-

EXHIBIT 4

DRUG & ALCOHOL CLEARINGHOUSE

WELCOME WADE



Search for a Driver

Country of Issuance (optional)

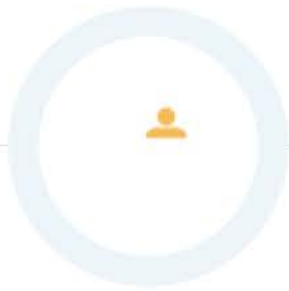
country

State of Issuance (optional)

state

Driver Name or CDL

Search



Search for an Employer

USDOT#

3835862

or

Company Name

Country (optional)

country

State (optional)

state

There is no employer account associated with the DOT Number you entered. Please confirm the DOT Number is correct.

You can also try searching by motor carrier name (partial or full) and State/country, in case the carrier does not have a DOT Number associated with their Clearinghouse account.

Search

CERTIFICATE OF SERVICE

25-TRAM-200-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 and electronic service on 12/10/2024.

MADISEN HANE, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
madisen.hane@ks.gov

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
ahsan.latif@ks.gov

Dennis Mendoza, OWNER
Epic Excavating LLC
21023 W 114th Ter
Olathe, KS 66061
epicexcavating7@gmail.com

/S/ KCC Docket Room
KCC Docket Room
