

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT
18-TRAM-427-PEN

April 12, 2018

Paul Jacob Diehl, Jr., Owner
d/b/a Diehl Farms
804 Pershing Ave
Garden City, Kansas 67846

Certified Mail No. 70161970000105741584

This is a notice of a penalty assessment against Paul Jacob Diehl, Jr., d/b/a Diehl Farms (Diehl Farms) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on March 27, 2018, by Kansas Corporation Commission Special Investigator Michael McAvoy. Penalties are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. 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: Diehl Farms has been assessed a \$1,500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,500, 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 Diehl Farms 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. Diehl Farms must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$1,500 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,


Ansan A. Latif
Litigation Counsel
(785) 271-3118

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

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

In the Matter of the Investigation of **Paul Jacob**)
Diehl, Jr., d/b/a Diehl Farms, of Garden City,)
Kansas, Regarding the Violation of the Motor)
Carrier Safety Statutes, Rules and Regulations) Docket No. 18-TRAM-427-PEN
and the Commission's Authority to Impose)
Penalties, Sanctions and/or the Revocation of)
Motor Carrier Authority.)

PENALTY ORDER

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

I. JURISDICTION

1. Pursuant to K.S.A. 2017 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2017 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2017 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

II. BACKGROUND

4. Paul Jacob Diehl, Jr., d/b/a Diehl Farms (Diehl Farms) has private operating authority with the Commission and further operates USDOT number 2983904.

5. Diehl Farms operates one power unit and drop deck trailer in interstate commerce transporting a tractor, backhoe and dozer. It does dirt work for new Dollar General facilities for new building construction.

6. Diehl Farms is a private motor carrier which primarily hauls general freight, grain, feed and hay.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on March 27, 2018, Commission Staff (Staff) Special Investigator Michael McAvoy conducted a compliance review of the operations of Diehl Farms. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On November 13, 2017, Diehl Farms required or permitted its driver, Paul Diehl, to operate a CDL-required commercial motor vehicle, a 1994 Western Star truck tractor, VIN ending in 934789, GVWR 50,000 lbs.,

pulling a 1980 Nabors drop deck trailer, VIN ending in 27712DFT, GVWR 50,000 lbs., in interstate commerce from Wichita, Kansas to Italy, Kansas. This trip is evidenced by Drivers Daily Log, dated November 13, 2017, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Diehl Farms did not have implemented an alcohol and controlled substance testing program for its CDL driver. The carrier’s failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a., above, Diehl Farms had not paid the appropriate Uniform Carrier Registration (UCR) fees to operate a commercial motor vehicle over the highways of the states. The carrier’s failure to annually register its commercial motor vehicle(s) operating in interstate commerce over the highways of this state and to pay the appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 2016 Supp. 66-1,139a and K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$300.
- c. During the transportation described in paragraph a., above, Diehl Farms failed to maintain a driver qualification file on its CDL driver. The carrier’s

failure to maintain a complete driver qualification file on its driver(s), consisting of the driver's application, motor vehicle record from each state, certificate of driver's road test, a note relating to the annual review of the driver's driving record, a list or certificate of violations, and the medical examiner's certificate is in violation of 49 C.F.R. 391.51(b), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$350.

- d. On November 12, 2017, Diehl Farms required or permitted its driver, Paul Diehl to operate a CDL-required commercial motor vehicle, a 1994 Western Star truck tractor, VIN ending in 934789, GVWR 50,000 lbs., pulling a 1980 Nabors drop deck trailer, VIN ending in 27712DFT, GVWR 50,000 lbs., in intrastate commerce from Salina, Kansas to Wichita, Kansas. This trip is evidenced by Driver's Daily Log, dated November 12, 2017, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, Diehl Farms was operating with a farm tag for movement of equipment from Garden City, Kansas to Wichita, Kansas and en route to a construction site in Italy, Kansas. Operating with a farm registered vehicle for other than agricultural use is a violation of 49 C.F.R. 392.2, as implemented by K.S.A. 8-142(9). Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Diehl Farms committed four (4) violation(s) of Kansas law that governs motor carriers, including various

provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$1,500 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Diehl Farms 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.

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

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Diehl Farms because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Diehl Farms committed four (4) 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. Paul Jacob Diehl, Jr., d/b/a Diehl Farms, of Garden City, Kansas is hereby assessed a \$1,500 civil penalty for four (4) 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. Diehl Farms 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. Diehl Farms is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. On April 12, 2018, this Penalty Order was mailed to Diehl Farms via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105741584. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. Pursuant to K.S.A. 2017 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Diehl Farms's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,500 civil penalty against Diehl Farms, and ordering a representative from Diehl Farms 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. 2017 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,500 is due in thirty (30) days from the date of service of this Order. Payment of \$1,500 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 \$1,500 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 Diehl Farms'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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 04/12/2018



Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT "A"



US DOT #
2983904

Legal: DIEHL FARMS
Operating (DBA):

MC/MX #: State #: 0000000 Federal Tax ID: (SSN)
Review Type: Compliance Review (CR)
Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory: F

Operation Types Interstate Intrastate

Carrier: Non-HM Non-HM
Shipper: N/A N/A
Cargo Tank: N/A

Business: Individual
Gross Revenue: for year ending: 12/31/2017

Company Physical Address:

Contact Name: Paul Jacob Diehl Jr
Phone numbers: (1) Fax
E-Mail Address:

Company Mailing Address:

804 Pershing Ave
Garden City, KS 67846

Carrier Classification

Private Property

Cargo Classification

General Freight Grain, Feed, Hay

Equipment

	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Truck Tractor	1	0	0	Trailer	1	0	0

Power units used in the U.S.: 1

Percentage of time used in the U.S.: 100

Does carrier transport placardable quantities of HM? No

Is an HM Permit required? N/A

Driver information

	Inter	Intra	Average trip leased drivers/month: 0
< 100 Miles:			Total Drivers: 1
>= 100 Miles:	1		CDL Drivers: 1





DIEHL FARMS
U.S. DOT #: 2983904

State #: 0000000

Review Date:
03/26/2018

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Paul Diehl

Title: Owner

Name:

Title:





DIEHL FARMS

U.S. DOT #: 2983904

State #: 0000000

Review Date:

03/26/2018

Part B Violations

1 FEDERAL ACUTE	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. Example Driver-Paul Diehl Trip Date- 11/13/2017					
2 STATE	Primary: 367.30 Secondary: KS66-1, 129 82-4-30a	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failure to pay appropriate UCR fees Example Carrier fail to pay 2017 and 2018 UCR fees when due. Carrier paid 2017 UCR fees on 2/21/2018, carrier paid 2018 UCR fees 1/11/2018 Trip date 11/13/2017					
3 FEDERAL	Primary: 391.51(b) Secondary: 391.51(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to maintain driver qualification file in accordance with 391.51(b). Example Driver Paul Diehl Trip Date 11/13/2017 Violation Description-Following required files not maintained in Driver qualification file: Application for employment, Employment History, MVR, Certification of Violations, and Annual Review of the drivers driving record., and Record of Road Test.					
4 STATE	Primary: 392.2 CFR Equivalent: 392.2	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
Description Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. Example Unit 8 Driver: Paul Diehl Trip Date November 12-13 Violation: Illegal Use of a farm tag. Movement of equipment from Garden City, Ks. to Wichita, Ks. enroute to a construction site in Texas. Utilizing a farm registered vehicle for other than agricultural use. (transporting construction equipment to a non-agricultural commercial construction site. This is a violation of 392.2 as adopted by K.S.A. 8-142(9).					





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03/26/2018

Part B Violations

5 FEDERAL	Primary: 396.3(b)(1)	Discovered	Checked	Drivers/Vehicles In Violation	Checked
		1	1	2	2

Description
Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size. Tractor Unit 8 and trailer Unit 5 no maintenance records that identify vehicles. (carrier has invoices for repair and maintenance)

6 FEDERAL	Primary: 396.3(b)(2)	Discovered	Checked	Drivers/Vehicles In Violation	Checked
		1	1	2	2

Description
Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed.

Example
Units 8 and 5 have no indication of maintenance due dates.

7 FEDERAL	Primary: 396.19(b)	Discovered	Checked	Drivers/Vehicles In Violation	Checked
		1	1	0	0

Description
Failing to maintain evidence of inspector's qualifications.

Example
Inspector's Name:
Inspection Date- April/ May 2017 (Tractor/ Trailer)
Vehicle- Unit 8 and Unit 5
Trip Date-11/13/2017

Safety Fitness Rating Information:

Total Miles Operated	5,000
Recordable Accidents	0
Recordable Accidents/Million Miles	0.00

OOS Vehicle (CR):	0
Number of Vehicle Inspected (CR):	0
OOS Vehicle (MCMIS):	0
Number of Vehicles Inspected (MCMIS):	0

Your proposed safety rating is :

SATISFACTORY

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	C	1	0
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	N	0	0
Factor 6:	S	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.





DIEHL FARMS
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Part B Requirements and/or Recommendations

1. Obtain a copy of each driver's driving record and review it annually.
2. 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.
3. 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.
4. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
5. This review will result in a Safety Rating.
6. Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.
7. DQ As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
8. DQ The carrier is required to maintain a complete road test or a copy of a valid commercial drivers license (CDL) in the driver qualification file.
9. Economic Carrier is required to pay Unified Carrier Registration (UCR) fee when operating in Interstate commerce.

Farm registered vehicles operating across state lines are required to pay annual UCR fees and have an assigned USDOT number.
10. Hours of Service Driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes. Drivers must take 30 minutes off-duty or in the sleeper-berth to meet this requirement.
11.
 - 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



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Part B Requirements and/or Recommendations

closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

- **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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

- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:

<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

For all Investigations that could result in a Notice of Claim:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

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

For all Investigations resulting in serious violations:

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





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Part B Requirements and/or Recommendations

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

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

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

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

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

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

385.15

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:





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Part B Requirements and/or Recommendations

US Department of Transportation
Jack Van Steenburg - Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation
Max Strathman – Midwestern Field Administrator
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300-A
Matteson, IL 60443

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

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

This letter should be submitted as soon as possible.





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Part B Requirements and/or Recommendations

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

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

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

12. Applies only to CR "I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of [motor carrier's] operating authority and/or the impoundment of [motor carrier's] vehicles.

[Signature] 3-26-18
Carrier Representative Date



ATTACHMENT "B"



DRIVER'S DAILY LOG

(24 HOURS)

11 / 13 / 2017
 (Month) (Day) (Year)

Original - File at local terminal
 Duplicate - Driver retains in his/her possession for eight days

416 544417
 Total Miles Driving Today Total Mileage Today

Diehl Farms

Name of Carrier or Carriers

Garden City

Main Office Address

#8 Tractor Trailer 008

Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

Paul Jacob Diehl

Home Terminal Address

I certify these entries are true and correct.

Driver's Full Signature

Co-Driver's Name

MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
-----------	---	---	---	---	---	---	---	---	---	----	----	------	---	---	---	---	---	---	---	---	---	----	----	-------------

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY (NOT DRIVING)

REMARKS

Pretrip Wichita Ks
 544401

SHIPPING DOCUMENTS:

B/L or Manifest No. or

Shipper & Commodity

From:

Wichita Ks

Enter name of place you reported and where released from work and when and where each change of duty occurred.

To:

Italy TX Blent
 544417
 Italy TX

USE TIME STANDARD AT HOME TERMINAL

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RECAP Complete at end of workday.

On-duty hours (Star) (Total) (lines 3 & 4)

70 Hour / 8 Day Drivers

A. Total hours on duty last 7 days, including today.

B. Total hours available tomorrow. 70 hr minus A.*

C. Total hours on duty last 8 days, including today.

80 Hour / 7 Day Drivers

A. Total hours on duty last 8 days, including today.

B. Total hours available tomorrow. 80 hr. minus A.*

C. Total hours on duty last 7 days, including today.

*If you meet the 34-hour restart requirements in 49CFR 392.401



ATTACHMENT "C"



DRIVER'S DAILY LOG

(24 HOURS)

11 / 12 / 2017
(Month) (Day) (Year)

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days.

85 54901
Total Miles Driving Today Total Mileage Today

Dick Farms
Name of Carrier or Carriers
[Redacted]
Main Office Address
Garden City KS
Home Terminal Address

#8 tck # 008
Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

I certify these entries are true and correct:

	MID-NIGHT											NOON											TOTAL HOURS
	1	2	3	4	5	6	7	8	9	10	11	1	2	3	4	5	6	7	8	9	10	11	
1. OFF DUTY	[Handwritten: OFF DUTY]																						14
2. SLEEPER BERTH	[Handwritten: SLEEPER BERTH]																						0
3. DRIVING	[Handwritten: DRIVING]																						3
4. ON DUTY (NOT DRIVING)	[Handwritten: ON DUTY (NOT DRIVING)]																						2
REMARKS	[Handwritten: REMARKS]																						24

SHIPPING DOCUMENTS:
B/L or Manifest No. or
Shipper & Commodity

From: Salida KS To: Wichita KS

Enter name of place you reported and where released from work and when and where each change of duty occurred.

Pretrip Gardale KS
543897 on Duty
Salina KS Pump Mart
Fuel stop 543897

LDR Pharmacy KS
543953 scale truck
73,000
Wichita KS
544091

RECAP
Complete at
end of workday.

On-duty hours
today (Total
lines 3 & 4)

70 Hour/
8 Day
Drivers

A.
Total hours on
duty last 7 days,
including today.

B.
Total hours
available
tomorrow.
70 hr minus A *

C.
Total hours on
duty last 8 days,
including today.

60 Hour/
7 Day
Drivers

A.
Total hours on
duty last 7 days,
including today.

B.
Total hours
available
tomorrow.
60 hr minus A *

C.
Total hours on
duty last 7 days,
including today.

*If you meet the
34-hour restart
requirements
in 49CFR, you
have 69.75
hours available.
3/2016

8527



USE TIME STANDARD AT HOME TERMINAL

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CERTIFICATE OF SERVICE

18-TRAM-427-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 04/13/2018.

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/S/ DeeAnn Shupe
DeeAnn Shupe