

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

Mark Sievers, Chairman  
Ward Loyd, Commissioner  
Thomas E. Wright, Commissioner

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

April 26, 2012

Todd Miller, President  
Todd Miller Trucking, Inc.  
PO Box 541  
Wathena, Kansas 66090

12-TRAM-757-PEN

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on March 27, 2012, by Kansas Corporation Commission Special Investigator Larry Baumchen. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### **IF YOU ACCEPT THE PENALTY:**

You have been assessed a \$1,500 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Fiscal Section of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by calling the Fiscal Office at 785-271-3274.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within the next 12 months. Staff will contact you at a later date to determine an appropriate time for this review.

### **IF YOU CONTEST THE PENALTY:**

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. Respondent must submit an original and seven (7) copies of the request to the Commission's Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215.

### **IF YOU FAIL TO ACT:**

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operations.

Sincerely,

Amber Smith  
Litigation Counsel  
(785) 271-3301

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

Before Commissioners: Mark Sievers, Chairman  
Ward Loyd  
Thomas E. Wright

In the Matter of the Investigation of **Todd Miller** )  
**Trucking, Inc., of Wathena, Kansas,** )  
Regarding the Violation of the Motor Carrier )  
Safety Statutes, Rules and Regulations and the ) Docket No. 12-TRAM-757-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). The Commission, being duly advised in the premises, and after having examined its files and records, finds and concludes as follows:

**I. JURISDICTION**

1. Pursuant to K.S.A. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 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. 66-1,129a, 66-1,130 and 66-1,142b, and amendments thereto, 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 order a hearing 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. Todd Miller Trucking, Inc. (Todd Miller Trucking) obtained common operating authority from the Commission on May 12, 2009, and operates under KSMCID number 158095 and USDOT number 642959.

5. Todd Miller attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on August 23, 2010, on behalf of Todd Miller Trucking.

6. Todd Miller Trucking is a common motor carrier which primarily hauls rock, sand and salt.

## **III. STAFF'S STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on March 27, 2012, Commission Staff (Staff) Special Investigator Larry Baumchen conducted a compliance review of the operations of Todd Miller Trucking. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Baumchen identified three (3) violations of the Motor Carrier Safety Regulations.

- a. On November 15, 2011, Todd Miller Trucking required or permitted its driver, Joseph H. Day, to operate a commercial motor vehicle, a 2000 Peterbilt, VIN [REDACTED], pulling a 2007 Timpte trailer, ID #RW2, in commerce on an interstate trip from Scott City, Kansas to

Siebert, Colorado. This trip is evidenced by Driver/Vehicle Examination Report No. KS0DBQ000055, dated November 15, 2011, a copy attached hereto as Attachment "B". At the time of this transportation. Todd Miller Trucking had not enrolled its driver in a random controlled substance and/or alcohol testing program. Todd Miller Trucking's failure to require its drivers to be enrolled in a random alcohol and controlled substance testing is a violation of 49 C.F.R. § 382.305(i)(2), as adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2010 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. During the transportation described in paragraph a., above, Todd Miller Trucking did not have minimum records of inspection and vehicle maintenance for the commercial vehicle operated. In addition, the carrier does not have records for other power units and trailers. Todd Miller Trucking's failure to maintain the required vehicle inspection records and vehicle maintenance records for 30 days is in violation of 49 C.F.R. 396.3(b), as adopted by K.A.R. 82-4-3j and as authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.
- c. On March 4, 2012, Todd Miller Trucking required or permitted its driver, Joseph H. Day, to operate a commercial motor vehicle, a 2000 Peterbilt, VIN [REDACTED] pulling a 2007 Timpette trailer, ID #RW2, in commerce on an interstate trip from Wathena, Kansas to Aurora, Nebraska. This trip is evidenced by Driver's Daily Log, a copy attached hereto as Attachment "C". At the time of this transportation, Todd Miller

Trucking had not required its driver, Mr. Day, to prepare a driver vehicle inspection report (DVIR) on the commercial motor vehicle. Todd Miller Trucking's failure to require each of its drivers to prepare a DVIR in writing, at the completion of each day's work, on each vehicle operated and to submit copies of the reports to the motor carrier for action and record retention is a violation of 49 C.F.R. 396.11(a), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2010 Supp. 66-1,129. Staff recommends a fine of \$500.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission find Todd Miller Trucking committed three (3) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), 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 three (3) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Todd Miller Trucking be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Todd Miller Trucking submit to one follow-up safety compliance review within the next twelve (12) months. 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 Todd Miller Trucking because it is a motor carrier as defined in K.S.A. 66-1,108.

13. The Commission finds Todd Miller Trucking committed three (3) violations of Kansas law that govern motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSR), 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. Todd Miller Trucking, Inc., of Wathena, Kansas is hereby assessed a \$1,500 civil penalty for three (3) violations 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. Todd Miller Trucking is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Todd Miller Trucking is ordered to submit to one follow-up safety compliance review within the next twelve (12) months.

C. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, and amendments thereto, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Todd Miller

Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,500 civil penalty against Todd Miller Trucking, and ordering Todd Miller Trucking to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within twelve (12) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation shall not be permitted to enter an appearance, except by its attorney.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Fiscal Section of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*

F. Failure to pay the \$1,500 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of Todd Miller Trucking's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Sievers, Chmn; Loyd, Com.; Wright, Com.

Dated: APR 26 2012

  
ORDER MAILED APR 27 2012

Patrice Petersen-Klein  
Executive Director

AS

**ATTACHMENT "A"**

**KANSAS CORPORATION COMMISSION**

	US DOT # 642959	Legal: TODD MILLER TRUCKING INC Operating (DBA):
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MC/MX #: 370226	State #: 158095	Federal Tax ID [REDACTED] (EIN)
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Review Type: Compliance Review (CR) - Receipt

Scope: Principal Office      Location of Review/Audit: Company facility in the U. S.      Territory:

<b>Operation Types</b>	Interstate	Intrastate	<b>Business:</b> Corporation
Carrier:	Non-HM	Non-HM	<b>Gross Revenue:</b> [REDACTED]      for year ending: 12/31/2011
Shipper:	N/A	N/A	
Cargo Tank:	N/A		

**Company Physical Address:**

[REDACTED]

Contact Name:

Phone numbers: (1) [REDACTED]      (2)      Fax

E-Mail Address: [REDACTED]

**Company Mailing Address:**

P O BOX 541  
WATHENA, KS 66090

**Report Summary**

Report	# of Pages
Part A - General	2
Part B - Violations	0
Part B - Recommendations	4
Review/Audit Receipt Page	1
<b>Total Pages</b>	<b>7</b>

**Disclaimer:** By signing below, I acknowledge that I have received a copy of this review/audit and agree with the total number of pages indicated (above) for each document. My signature does not imply agreement with the findings of the review/audit, however they have been discussed in detail with me.

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

1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
785-271-3151

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


**Person(s) Interviewed**

Name: TODD MILLER	Title: PRESIDENT
Name:	Title:

Reported By: *[Signature]*      Title: *Spec Investig*      Code: KS8208      Date: 3/27/2012

Received By:      Title:

KANSAS CORPORATION COMMISSION

	US DOT # 642959	Legal: TODD MILLER TRUCKING INC Operating (DBA):
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MC/MX #: 370226	State #: 158095	Federal Tax ID [REDACTED] (EIN)
Review Type: Compliance Review (CR) - Receipt		
Scope: Principal Office	Location of Review/Audit: Company facility in the U. S.	
Territory:		

Operation Types	Interstate	Intrastate	Business: Corporation Gross Revenue: [REDACTED] for year ending: 12/31/2011
Carrier:	Non-HM	Non-HM	
Shipper:	N/A	N/A	
Cargo Tank:	N/A		

Company Physical Address:

[REDACTED]

Contact Name:

Phone numbers: (1) [REDACTED] (2) [REDACTED] Fax [REDACTED]

E-Mail Address: [REDACTED]

Company Mailing Address:

P O BOX 541  
WATHENA, KS 66090

Report Summary

Report	# of Pages
Part A - General	2
Part B - Violations	82
Part B - Recommendations	4
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785-271-3151

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name: TODD MILLER	Title: PRESIDENT
Name:	Title:

Reported By: *[Signature]* Title: *Spec Investigator* Code: KS8208 Date: 3/27/2012

Received By: *[Signature]* Title: *President*



**KANSAS CORPORATION COMMISSION**

	US DOT # 642959		Legal: TODD MILLER TRUCKING INC Operating (DBA):					
	MC/MX #: 370226		State #: 158095	Federal Tax ID [REDACTED] (EIN)				
Review Type: Compliance Review (CR)								
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.			Territory:			
Operation Types		Interstate	Intrastate	Business: Corporation				
Carrier: Non-HM		Non-HM	Gross Revenue: [REDACTED] for year ending: 12/31/2011					
Shipper: N/A		N/A						
Cargo Tank: N/A								
<b>Company Physical Address:</b>								
[REDACTED]								
Contact Name:								
Phone numbers: (1) [REDACTED]		(2) [REDACTED]		Fax				
E-Mail Address: [REDACTED]								
<b>Company Mailing Address:</b>								
P O BOX 541 WATHENA, KS 66090								
<b>Carrier Classification</b>								
Authorized for Hire			Private Property					
<b>Cargo Classification</b>								
Grain, Feed, Hay		Commodities Dry Bulk		Other: ROCK SAND SALT				
Does carrier transport placardable quantities of HM? No								
Is an HM Permit required? N/A								
<b>Driver Information</b>								
		Inter	Intra	Average trip leased drivers/month: 0				
< 100 Miles:		3	Total Drivers: 6					
>= 100 Miles:		3	CDL Drivers: 6					
<b>Equipment</b>								
		Owned	Term Leased	Trip Leased	Owned	Term Leased	Trip Leased	
Truck Tractor		9	0	0	Trailer	10	0	0
Power units used in the U.S.:9								
Percentage of time used in the U.S.:100								





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

**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:

1500 SW Arrowhead Road  
Topeka, Kansas 66604-4027  
785-271-3151

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

**Person(s) Interviewed**

Name: TODD MILLER

Title: PRESIDENT

Name:

Title:





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

**Part B Violations**

1 FEDERAL ACUTE	Primary: 382.305	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked	
<b>Description</b> Failing to implement a random controlled substance and/or an alcohol testing program. <b>Example</b> Driver is Joseph Day..trip date is 11-15-11..					
2 FEDERAL	Primary: 391.21(a)	Discovered 5	Checked 5	Drivers/Vehicles In Violation Checked	5 5
<b>Description</b> Using a driver who has not completed and furnished an employment application. <b>Example</b> Driver is Joseph Day..trip date is 11-15-11..Application does not list carrier information...					
3 FEDERAL	Primary: 391.51(b)(4)	Discovered 5	Checked 5	Drivers/Vehicles In Violation Checked	5 5
<b>Description</b> Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). <b>Example</b> Driver is Joseph Day..trip date is 11-15-11..					
4 FEDERAL	Primary: 391.51(b)(5)	Discovered 5	Checked 5	Drivers/Vehicles In Violation Checked	5 5
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). <b>Example</b> Driver is Joseph Day..trip date is 11-15-11..					
5 FEDERAL	Primary: 391.51(b)(6)	Discovered 5	Checked 5	Drivers/Vehicles In Violation Checked	5 5
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Driver is Joseph Day..trip date is 11-15-11..					
6 FEDERAL CRITICAL	Primary: 396.3(b)	Discovered 5	Checked 5	Drivers/Vehicles In Violation Checked	5 5
<b>Description</b> Failing to keep minimum records of inspection and vehicle maintenance. <b>Example</b> Company #10..license [REDACTED] (KS)..trip date is 11-15-11...					





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

**Part B Violations**

7 FEDERAL CRITICAL	Primary: 396.11(a)	Discovered 100	Checked 100	Drivers/Vehicles In Violation 5	Checked 5
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**Description**  
Failing to require driver to prepare driver vehicle inspection report.

**Example**  
Driver is Joseph Day..trip date is 03-04-12...Company number is #10..

<b>Safety Fitness Rating Information:</b>		<b>OOS Vehicle (CR): 0</b>
Total Miles Operated	578,607	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 3
Recordable Accidents/Million Miles	0.00	Number of Vehicles Inspected (MCMIS): 5

<b>Your proposed safety rating is :</b>       <b>CONDITIONAL</b>	<b>Rating Factors</b>	<b>Acute</b>	<b>Critical</b>
	Factor 1:	S	0
	Factor 2:	C	1
	Factor 3:	S	0
	Factor 4:	U	0
	Factor 5:	N	0
	Factor 6:	S	-

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

## Part B Requirements and/or Recommendations

1. Carrier is required to subject its drivers to random drug and alcohol testing. Send a copy of program, driver names, policy, consortium, agreement, if applicable to the following:

Max Strathman, Administrator  
FMCSA-Kansas Division  
1303 S.W. First American Place, Suite 200  
Topeka, Ks. 66604

Gary Davenport  
Kansas Corporation Commission  
1500 S.W. Arrowhead Road  
Topeka, Ks. 66604-4027

2. Require drivers to complete the Certificate of Violations once each twelve months after being hired.
3. Place a copy of the driver's MVR in the driver qualification file. The record needs to be on file within thirty days of the hire date.
4. Obtain a copy of each drivers driving record and review it on an annual basis to ensure that driver is still qualified and licensed to drive.
5. Establish a complete file for each vehicle. Record all inspection, maintenance and repair operations performed. Records for each vehicle should be kept in its own folder and include the following identifiers for each vehicle on the file: company number, make, serial (VIN) number, year and tire size.
6. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
7. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.

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

DESCRIPTION OF PROCESS BREAKDOWN: Carrier does not have a random testing program in place

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

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Review Date:  
03/27/2012

## Part B Requirements and/or Recommendations

### Seek Out Resources:

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

### 9. VEHICLE MAINTENANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

**DESCRIPTION OF PROCESS BREAKDOWN:** Carrier does not maintain vehicle files and does not require drivers to complete driver vehicle inspection reports...

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

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

#### HAZMAT Carriers:

- Establish a policy and procedure to ensure that drivers examine each tire on the motor vehicle at the beginning of each trip and each time the vehicle is parked, and that they take immediate corrective measures as needed before continuing with the route.

#### Passenger Carriers:

- Develop systematic procedures for inspecting maintenance items critical to fire-safety and emergency evacuation - for example, checking wheel-hub lubrication levels according to the manufacturer's recommended inspection intervals, checking wheels for signs of excess heat every time the motorcoach is parked, regularly inspecting wiring and electrical systems for shorts circuits, and inspecting emergency-exit operation and markings.
- Consider installation of fire-detection-and-suppression systems on current fleets and as purchase options on new coaches.

### Seek Out Resources:

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

### 10. For all Investigations:

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

## Part B Requirements and/or Recommendations

lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

- Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.

- NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.

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

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

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

For all Investigations that could result in a Penalty Order:

- PLEASE NOTE: The violations discovered during this compliance review may 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 K.C.C. 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:

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





TODD MILLER TRUCKING INC  
U.S. DOT #: 642959

State #: 158095

Review Date:  
03/27/2012

### Part B Requirements and/or Recommendations

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:

Darin G. Jones--Field Administrator  
Midwestern Service Center--Federal Motor Carrier Safety Administration  
4749 Lincoln Mall Drive, Suite 300A  
Matteson, IL 60443

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

Max Strathman--Division Administrator  
Federal Motor Carrier Safety Administration-Kansas Division  
1303 S.W. First American Place Suite 200  
Topeka KS 66604

This letter should be submitted as soon as possible. If you have a proposed Unsatisfactory or Conditional Rating the letter must be submitted prior to the effective date of your Unsatisfactory or Conditional Rating.

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

• All Other Motor Carriers: This review will result in a Proposed Safety Rating. The findings indicate you are currently operating at an unsatisfactory level of safety compliance. A written notice of proposed unsatisfactory rating will be sent to you by the FMCSA via U.S. Mail. If you fail to obtain an improved rating within 60 days of the date that notice is sent, the unsatisfactory rating will become final and you must cease interstate operations.

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

11. The violations listed in Part B of this report are considered serious in nature. These violations of the regulations could result in penalties against your company and/or your drivers.
12. Within the next fifteen days, send a letter to the Transportation Director, Kansas Corporation Commission listing the steps that have been taken to correct the violations listed in Part B of this review. The mailing address is: 1500 S.W. Arrowhead Road, Topeka, Kansas 66604-4027. Please include the DOT# for your carrier on this correspondence.



**ATTACHMENT "B"**

# DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.1.3

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

Report Number: KS0DBQ000055  
 Inspection Date: 11/15/2011  
 Start: 12:50 PM CT End: 01:20 PM CT  
 Inspection Level: II - Walk-Around  
 HM Inspection Type: None

TODD MILLER TRUCKING  
 P O BOX 541  
 WATHENA, KS 66090  
 USDOT#: 00642959  
 MC/MX#: 370226  
 State#: 158085

Phone#: [REDACTED]  
 Fax#: [REDACTED]

Driver: DAY, JOSEPH H  
 License#: [REDACTED] State: MO  
 Date of Birth: [REDACTED]  
 CoDriver: [REDACTED]  
 License#: [REDACTED] State: [REDACTED]  
 Date of Birth: [REDACTED]

Location: SCOTT COUNTY  
 Highway: US-83  
 County: SCOTT, KS

MilePost: 122  
 Origin: SCOTT CITY, KS  
 Destination: SIEBERT, CO

Shipper:  
 Bill of Lading:  
 Cargo: EMPTY

### VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	Vin #	GVWR	CVSA #	New CVSA #	OOS#
1	TT	PTRB	2000	KS	[REDACTED]	10	[REDACTED]	48000			
2	ST	TIMP	2007	KS	[REDACTED]	RW2	[REDACTED]	65000			

**BRAKE ADJUSTMENTS:** No Brake Measurements Required For Level 2

### VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.2-SLLS4	392.2	D	N	4156169	N	N	State/Local Laws - Speeding 15 or more miles per hour over the speed limit. 82 mph in a 65 mph zone.
392.2	392.2	1	N		N	N	Local Laws (general) UCR fees not paid for 2011.

**HazMat:** No HM Transported.

**Placard:** No **Cargo Tank:**

**Special Checks:** Traffic Enforcement

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

Signature Of Repairer X \_\_\_\_\_ Facility \_\_\_\_\_ Date \_\_\_\_\_

\*\*\* DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. \*\*\*  
 \*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:  
 J.S. Powers

Badge #:  
 0239

Copy Received By:  
 JOSEPH DAY

Page 1 of 1



00642959 KS KS0DBQ000055

X \_\_\_\_\_

X \_\_\_\_\_

**ATTACHMENT "C"**

# TRUCK LOG

3 / 4 / 12  
(Month) (Day) (Year)

Original - File at home terminal  
Duplicate - Driver retains

239

Mileage Today

Todd Miller Trucking

Name of Carrier or Carriers

PO# 541 WATHENA KS

Main Office Address

Same

Home Terminal Address

I certify these entries are true and correct:

Joseph [Signature]

Driver's Full Signature

NE

Trucks or  
Trailer unit)

5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	

WATHENA KS

AURORA NE

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

WATHENA KS

To: AURORA NE

USE TIME STANDARD AT HOME TERMINAL

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IN RE: DOCKET NO. 12-TRAM-757-PEN

DATE APR 26 2012

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
AMBER SMITH, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
Todd Miller, PRESIDENT Todd Miller Trucking, Inc. PO Box 541 Wathena, KS 66090		

ORDER MAILED APR 27 2012

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.