



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

April 11, 2019

19-TRAM-405-PEN

Dylan J. Moyer, Managing Member
Moyer Trucking, LLC
530 Webster Court
Erie, KS 66733

This is a notice of a penalty assessment against Moyer Trucking, LLC (Moyer Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on March 13, 2019, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Moyer Trucking has been assessed a \$100 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$100, 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 Moyer Trucking to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Moyer Trucking must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the 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. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$100 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

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

PENALTY ORDER

I. JURISDICTION

2. Pursuant to K.S.A. 2018 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

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

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

II. BACKGROUND

4. Moyer Trucking, LLC (Moyer Trucking) operates under USDOT number 2414178.

5. Dylan Moyer attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 30, 2017, on behalf of Moyer Trucking.

6. Moyer Trucking is a private and common motor carrier which primarily hauls construction, gravel, sand and asphalt.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on March 13, 2019, Commission Staff (Staff) Special Investigator Michael Heenan conducted a safety compliance review of the operations of Moyer Trucking. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On February 2, 2019, Moyer Trucking required or permitted its driver, Dylan J. Moyer, to operate a CDL-required commercial motor vehicle, a 1994 Freightliner 10-wheel dump truck, VIN ending in 429300, GVWR

54,000 lbs., in intrastate commerce from Erie, Kansas to Urbana, Kansas. This trip is evidenced by a Bill of Lading, dated February 2, 2019, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Moyer Trucking failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,112. Staff recommends a fine of \$100.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Moyer Trucking committed one (1) 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 \$100 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Moyer Trucking be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates

and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

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

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Moyer Trucking because it is a motor carrier as defined in K.S.A. 2018 Supp. 66-1,108.

13. The Commission finds Moyer Trucking committed one (1) 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. Moyer Trucking, LLC, of Erie, KS is hereby assessed a \$100 civil penalty for one (1) 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. Moyer Trucking is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Moyer Trucking is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. Pursuant to K.S.A. 2018 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the 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 Moyer Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$100 civil penalty against Moyer Trucking, and ordering a representative from Moyer Trucking to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2018 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$100 is due in thirty (30) days from the date of service of this Order. Payment of \$100 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.

G. Failure to pay the \$100 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 Moyer Trucking's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

H. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: 04/11/2019




Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

Kansas Corporation Commission

	US DOT # 2414178	Legal: MOYER TRUCKING LLC Operating (DBA):																						
MC/MX #:		Federal Tax ID: [REDACTED] (EIN)																						
Review Type: Compliance Review (CR)																								
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.		Territory: C																				
Operation Types <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Interstate</td> <td style="width:15%;">Intrastate</td> <td colspan="3"></td> </tr> <tr> <td>Carrier: N/A</td> <td>Non-HM</td> <td colspan="3">Business: Corporation</td> </tr> <tr> <td>Shipper: N/A</td> <td>N/A</td> <td colspan="3">Gross Revenue: [REDACTED] for year ending: 12/31/2017</td> </tr> <tr> <td>Cargo Tank: N/A</td> <td></td> <td colspan="3"></td> </tr> </table>					Interstate	Intrastate				Carrier: N/A	Non-HM	Business: Corporation			Shipper: N/A	N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2017			Cargo Tank: N/A				
Interstate	Intrastate																							
Carrier: N/A	Non-HM	Business: Corporation																						
Shipper: N/A	N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2017																						
Cargo Tank: N/A																								
Company Physical Address: 530 WEBSTER CT ERIE, KS 66733 Contact Name: Dylan J Moyer Phone numbers: (1) [REDACTED] Fax E-Mail Address: [REDACTED]																								
Company Mailing Address: 530 WEBSTER CT ERIE, KS 66733																								
Carrier Classification Authorized for Hire Private Property																								
Cargo Classification Construction Other: Gravel sand asphalt																								
Equipment <table style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td align="center">1</td> <td align="center">0</td> <td align="center">0</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>						Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	1	0	0								
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased																	
Truck	1	0	0																					
Power units used in the U.S.: 1 Percentage of time used in the U.S.: 100 Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A																								
Driver Information <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:10%;">Inter</td> <td style="width:10%;">Intra</td> <td style="width:15%;"></td> <td style="width:15%;">Average trip leased drivers/month: 0</td> </tr> <tr> <td>< 100 Miles:</td> <td></td> <td align="center">1</td> <td></td> <td>Total Drivers: 1</td> </tr> <tr> <td>>= 100 Miles:</td> <td></td> <td></td> <td></td> <td>CDL Drivers: 1</td> </tr> </table>						Inter	Intra		Average trip leased drivers/month: 0	< 100 Miles:		1		Total Drivers: 1	>= 100 Miles:				CDL Drivers: 1					
	Inter	Intra		Average trip leased drivers/month: 0																				
< 100 Miles:		1		Total Drivers: 1																				
>= 100 Miles:				CDL Drivers: 1																				





MOYER TRUCKING LLC
U.S. DOT #: 2414178

Review Date:
03/13/2019

Part A

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

1500 SW Arrowhead Rd
Topeka, Ks 66604-4027
Attn: Gary Davenport 620-785-3145

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Dylan J Moyer

Title: Managing Member

Name: Valarie Z Moyer

Title: Office manager





MOYER TRUCKING LLC
U.S. DOT #: 2414178

Review Date:
03/13/2019

Part B Violations

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

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

Example

Driver name: Dylan J Moyer

Trip date: 2/2/19

At the time of this trip, and the time of this review, the carrier had a MVR dated 09-04-17 valid until 09-04-18. Carrier had 3 MVRs in the driver file. The MVR expired 09-04-18 and at the time of this review, they had not renewed the driver MVR.

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

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

Example

Driver name: Dylan J Moyer

Trip date: 2/2/19

At the time of this, and the time of this review, the carrier had an annual review of driving record dated 9-1-17 to 9-1-18. There were no others provided for this review.

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

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

Example

Driver name: Dylan J Moyer

Trip date: 2/2/19

At the time of this, and the time of this review, the carrier had a certificate of violations that was dated 9-1-17 to 9-1-18. There were no other certificates provided for this review.

Safety Fitness Rating Information:

Total Miles Operated 13,000
Recordable Accidents 0

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 :

This Review is not Rated.





MOYER TRUCKING LLC
U.S. DOT #: 2414178

Review Date:
03/13/2019

Part B Requirements and/or Recommendations

1. 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 Moyer Trucking LLC operating authority and/or the impoundment of Moyer Trucking LLC vehicles.

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

X Valerie Moyer
Printed Michael Herman

X [Signature]
Signed Michael Herman

2. For all Investigations:

- Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.

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

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

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

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

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

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the





MOYER TRUCKING LLC
U.S. DOT #: 2414178

Review Date:
03/13/2019

Part B Requirements and/or Recommendations

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.

3. 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.
4. Per 49 CFR 391.51(b)(5) and (b)(6), the motor carrier is required to process an annual review and certification of the driver's driving record - 391.51(b)(5) A note relating to the annual review of the driver's driving record as required by 391.25(c)(2); 391.51(b)(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.
5. If carrier is not subject to federal corrective action plan the KCC requires you reply in writing with corrections made to violations in this review. Please advise how you will correct deficiencies and how you intend to rectify them from happening in the future. Please include all copies of documents to be included in this correction action letter and send to the following individual at the following address within 30 days of this review.

Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, Ks 66604-4027
Attn: Gary Davenport

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

Moyer Trucking, LLC
Carrier Name

[Signature]
Carrier Official

M.W. Neenan

KCC 8213



ATTACHMENT “B”

Moyer Trucking
530 Webster Ct., Erie, KS 66733
620-212-6830

00127

Loading Point Whitaker / Hyregate St. KS Date 2-2-19 + 2-1-19

Shipper Dylan Mauer Address _____

Ship to Stacy Phelps Address Urbana KS

Special Instructions _____

Subject To Conditions of Uniform Bill of Lading

Number of Articles	Description of Shipment	Weight	Rate	Amount
2 loads	AB-3	31.84 tons	190x2	\$380
Signature of Shipper or Agent		Truck	Trailer	Received Above Property in Good Order
Driver <u>D. B.</u>		Date Delivered		

PAYMENT DUE WITHIN 10 DAYS

CERTIFICATE OF SERVICE

19-TRAM-405-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 04/12/2019.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
Fax: 785-271-3354
a.latif@kcc.ks.gov

DYLAN MOYER, MANAGING MEMBER
MOYER TRUCKING, LLC
530 WEBSTER CT
ERIE, KS 66733
dylanmoyer530@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe