

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emmer, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT
18-TRAM-135-PEN

September 21, 2017

Brian R. Neal, Vice President
Neal Concrete, Inc.
1906 W 69th N
Wichita, Kansas 67024

Certified Mail No. 70161970000105737082

This is a notice of a penalty assessment against Neal Concrete, Inc. for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 30, 2017, by Kansas Corporation Commission Special Investigator(s) Gary Goeller. Penalty amounts 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 that is attached to this notice.

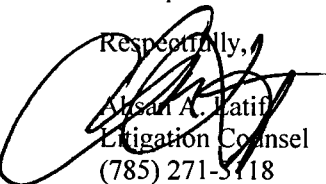
IF YOU ACCEPT THE PENALTY: Neal Concrete has been assessed a \$4,400 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine amount. Please remit payment of \$4,400, through your personal account with the Kansas Corporation Commission's KTRAN application located 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.

You must attend a Commission-sponsored safety seminar within ninety (90) days from the date of the attached Order and provide the undersigned Litigation Counsel 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. You also must submit to one follow-up safety compliance review within 18 months from the date of the attached Order. Transportation Staff will contact you 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. Neal Concrete 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 must 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 (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Penalty Order and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$4,400 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the attached Penalty Order, or in the alternative, failure to provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the attached Order becoming a Final Order and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,


Ahsan A. Latif
Litigation Counsel
(785) 271-3418

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

Before Commissioners: Pat Apple, Chairman
 Shari Feist Albrecht
 Jay Scott Emler

In the Matter of the Investigation of Neal)
Concrete, Inc., of Wichita, Kansas, Regarding)
the Violation of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 18-TRAM-135-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, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2016 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. 2016 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. 2016 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 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. Neal Concrete, Inc. (Neal Concrete) operates USDOT number 1215298.

5. Neal Concrete operates within 25 miles of its principle place of business and is also under the tools of the trade economic exemption for Commission private carrier authority.

6. Neal Concrete is a private motor carrier which primarily hauls concrete, building and construction materials.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on August 30, 2017, Commission Staff (Staff) Special Investigator(s) Gary Goeller conducted a compliance review of the operations of Neal Concrete. 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(s) identified six (6) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 7, 2017, Neal Concrete required or permitted its driver, Don Koehn, to operate a CDL-required commercial motor vehicle, a 1987 International, VIN ending in 495844, GVWR 28,000 lbs., in intrastate commerce from Haysville, Kansas to Kechi, Kansas. This trip is

evidenced by KCC Written Statement, dated May 18, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Neal Concrete did not have implemented an alcohol and controlled substances testing program for its three (3) CDL drivers it employs. 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 \$650.

- b. During the transportation described in paragraph a., above, Neal Concrete did not maintain driver qualification files on two of its drivers. The special investigator found two (2) violations of this type. The carrier's failure to maintain driver qualification files on its drivers is a violation of 49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.
- c. During the transportation described in paragraph a., above, Neal Concrete failed to require its driver Don Koehn to make a record of duty status showing the date, start time, end time and total number of hours worked. the special investigator found 60 violations of this type. The carrier's failure to require its drivers to keep records of duty status for each 24-hour period, or in the alternative to maintain and retain time records described in 49 C.F.R. 395.1(e) under the short haul exemption, using the method

described in 49 C.F.R. 395.8(a), and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$1,000.

- d. During the transportation described in paragraph a., above, Neal Concrete failed to maintain minimum records of vehicle inspections and vehicle maintenance on the commercial motor vehicles operated. The special investigator found three (3) violations of this type. The carrier's failure to have records indicating the nature and due date of the inspections and maintenance operations to be performed on the commercial motor vehicles is a violation of 49 C.F.R. 396.3(b)(2), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.
- e. During the transportation described in paragraph a., above, Neal Concrete failed to require its driver, Don Koehn to make a Driver Vehicle Inspection Report (DVIR) on the commercial motor vehicle operated. The special investigator found 27 violations of this type. Neal Concrete's failure to require its driver 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)(1), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$500.

- f. During the transportation described in paragraph a., above, Neal Concrete permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicle operated during the preceding 12-month period. The special investigator found three (3) violations of this type. Neal Concrete's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$750.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Neal Concrete committed six (6) 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 \$4,400 for six (6) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Neal Concrete 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 the safety seminar can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Neal Concrete 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 Neal Concrete because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds Neal Concrete committed six (6) 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. Neal Concrete, Inc., of Wichita, Kansas is hereby assessed a \$4,400 civil penalty for six (6) 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. Neal Concrete 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. Neal Concrete 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. 2016 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 (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel, within fifteen (15) days from the date of service of this Order. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Neal Concrete's right to a hearing, and this Penalty Order will become a Final Order assessing a \$4,400 civil penalty against Neal Concrete, and ordering Neal Concrete 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 eighteen (18) months from the date of this Order.

E. On September 21, 2017, this Penalty Order was mailed to Neal Concrete via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105737082. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

F. 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 of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$4,400 is due in thirty (30) days from the date of service of this Order. Payment of \$4,400 must be made through your personal account with the Kansas Corporation Commission's KTRAN application 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.

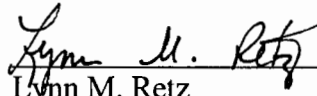
H. Failure to pay the \$4,400 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Neal Concrete's motor carrier operating authority without further notice. 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.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: SEP 21 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

SEP 22 2017

ATTACHMENT "A"

| | | | |
|---|---------------------|--|---|
|  | US DOT # 1215298 | Legal: NEAL CONCRETE INC Operating (DBA): | |
| MC/MX #: | | State #: 00000000 | Federal Tax ID: [REDACTED] (EIN) |
| 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: | N/A | Non-HM | Business: Corporation |
| Shipper: | N/A | N/A | Gross Revenue: [REDACTED] for year ending: 12/31/2016 |
| Cargo Tank: | N/A | | |
| Company Physical Address: [REDACTED] | | | |
| Contact Name: Brian R Neal | | | |
| Phone numbers: (1) [REDACTED] | | Fax | |
| E-Mail Address: [REDACTED] | | | |
| Company Mailing Address: 1906 W 69TH N WICHITA, KS 67204-1055 | | | |
| Carrier Classification Private Property | | | |
| Cargo Classification Building Materials Construction | | | |
| Equipment | | | |
| | Owned | Term Leased | Trip Leased |
| Truck | 3 | 0 | 0 |
| Power units used in the U.S.: 3 | | | |
| 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: | | 4 | Total Drivers: 4 |
| >= 100 Miles: | | | CDL Drivers: 3 |



NEAL CONCRETE INC

U S. DOT # 1215298

State # 00000000

Review Date

08/30/2017

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

Kansas Corporation Commission
Attn. Gary Davenport
1500 SW Arrowhead Rd , Topeka, KS 66604-4027

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Brian R Neal

Title: Vice President

Name: [REDACTED]





NEAL CONCRETE INC
U.S. DOT #: 1215298

State #: 00000000

Review Date:
08/30/2017

Part B Violations

| | | | | | |
|--|---|------------------|---------------|---------------------------------------|--------------|
| 1 FEDERAL | Primary: 382.115(a) | Discovered 1 | Checked 1 | Drivers/Vehicles In Violation 0 | Checked 0 |
| Description Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. Example trip date: 05.07.2017 driver: [REDACTED] Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000 with out having implemented a alcohol and/or controlled substances testing program. | | | | | |
| 2 STATE | Primary: 391.45(a) Secondary: 391.11(a) CFR Equivalent: 391.45(a) | Discovered 2 | Checked 2 | Drivers/Vehicles In Violation 2 | Checked 2 |
| Description Using a driver not medically examined and certified. Example Trip Date March 15, 2017 Driver [REDACTED] Operated a 1987 International, KS VIN# [REDACTED] 495844/ KS Tag [REDACTED] gwr 28,000 on a trip in Sedgwick Co. KS without having been medically examined and certified. | | | | | |
| 3 STATE | Primary: 391.51(a) CFR Equivalent: 391.51(a) | Discovered 2 | Checked 2 | Drivers/Vehicles In Violation 2 | Checked 2 |
| Description Failing to maintain driver qualification file on each driver employed. Example trip date: 05.07.2017 driver: [REDACTED] Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000 without maintaining a completed driver qualification file on each driver employed. | | | | | |
| 4 STATE | Primary: 395.8(a) CFR Equivalent: 395.8(a) | Discovered 60 | Checked 60 | Drivers/Vehicles In Violation 2 | Checked 2 |
| Description Failing to require driver to make a record of duty status. Example trip date: 05.07.2017 driver: [REDACTED] Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000 without having driver make a record of duty status or time record. | | | | | |





NEAL CONCRETE INC

U S DOT # 1215298

State # 00000000

Review Date

08/30/2017

Part B Violations

| | | | | | |
|------------|--|-----------------|--------------|---------------------------------------|--------------|
| 5 STATE | Primary. 396 3(b) CFR Equivalent 396 3(b) | Discovered 3 | Checked 3 | Drivers/Vehicles In Violation 3 | Checked 3 |
|------------|--|-----------------|--------------|---------------------------------------|--------------|

Description

Failing to keep minimum records of inspection and vehicle maintenance

Example

trip date 05 07 2017

driver [REDACTED]

Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000 without requiring driver to complete a driver vehicle inspection report.

| | | | | | |
|------------|---|------------------|---------------|---------------------------------------|--------------|
| 6 STATE | Primary 396.11(a) CFR Equivalent 396 11(a) | Discovered 27 | Checked 27 | Drivers/Vehicles In Violation 2 | Checked 2 |
|------------|---|------------------|---------------|---------------------------------------|--------------|

Description

Failing to require driver to prepare driver vehicle inspection report

Example

trip date 05 07 2017

driver [REDACTED]

Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000 without requiring driver to complete a driver vehicle inspection report.

| | | | | | |
|------------|---|-----------------|--------------|---------------------------------------|--------------|
| 7 STATE | Primary 396 17(a) CFR Equivalent 396 17(a) | Discovered 3 | Checked 3 | Drivers/Vehicles In Violation 3 | Checked 3 |
|------------|---|-----------------|--------------|---------------------------------------|--------------|

Description

Using a commercial motor vehicle not periodically inspected

Example

trip date 05.07 2017

driver [REDACTED]

Operated a 1987 International, KS tag [REDACTED] / KS VIN# [REDACTED] 495844/ gwr 28,000. No evidence of annual periodic inspections

Safety Fitness Rating Information:

Total Miles Operated 2,000

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.





NEAL CONCRETE INC
U S DOT #. 1215298

State # 00000000

Review Date
08/30/2017

Part B Requirements and/or Recommendations

1. 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 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 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





NEAL CONCRETE INC

U.S. DOT #: 1215298

State #: 00000000

Review Date:

08/30/2017

Part B Requirements and/or Recommendations

Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027

2. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm
3. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
4. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
5. Employers are responsible for their officers', employees', agents', consortia, and/or contractors' compliance with the requirements of 49 CFR Parts 40 and 382.
6. Obtain a copy of each driver's driving record and review it annually.
7. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
8. Ensure that drivers provide a 10-year employment history on their employment application.
9. 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
10. Do not allow drivers to drive intrastate unless they have been physically re-examined each 24 months.
11. Maintain all required alcohol and controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR.
12. Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.
13. New & intermittently used drivers must provide a signed statement showing their total time on-duty for the seven days preceding any trip. These records must be kept on file for 6-months.
14. 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.
15. 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.
16. Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to.
17. Review with your drivers periodically the procedures for doing pre-trip and post-trip inspections. Ensure that safety defects reported by drivers on their Vehicle Inspection Reports (VIR) are repaired before the vehicle is re-dispatched.





NEAL CONCRETE INC
U.S. DOT #: 1215298

State #: 00000000

Review Date:
08/30/2017

Part B Requirements and/or Recommendations

Require drivers to prepare Vehicle Inspection Reports on a daily basis. Keep them on file for 90 days.

18. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: Neal Concrete Inc does not have a current controlled substance and or alcohol testing program.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Roles and Responsibilities.

- Ensure that managers are responsible for ascertaining that employees receive training concerning controlled substances and alcohol in accordance with State or Federal regulations and company policy.
- Ensure that managers are responsible for telling employees of a failed test and its implications.
- Regardless of carrier membership in a consortium, ensure that the carrier defines and documents the role and responsibilities of the designated employer representative (DER) in monitoring test procedures and checking results.
- If the carrier elects to join a consortium, ensure that the respective roles and responsibilities of the carrier and the consortium for controlled-substance and alcohol testing and reporting are defined and documented.

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.

19. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Neal Concrete Inc currently does not monitor, or require driver to complete record of duty status (logs) Neal Concrete Inc does not currently meet the requirements to have their CDL drivers operate in the 100 air mile exception and must complete logs as the trucks never start and return to the same principle work reporting location. They are moved from job sit to job site and occasionally back to the company facility.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.





NEAL CONCRETE INC

U S DOT # 1215298

State # 00000000

Review Date

08/30/2017

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.

20. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Neal Concrete Inc currently does not have a established maintenance program or current annual inspections on the cmv's

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 and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows vehicle maintenance violations

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

21. DRIVER FITNESS BASIC PROCESS BREAKDOWN Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Neal Concrete Inc currently does not complete driver qualification files for its drivers

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification
- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's





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Part B Requirements and/or Recommendations

Licenses (CDLs) immediately following notification of suspension/revocation

- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Driver Fitness Violations.

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.

22. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers
23. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me, KCC Special Investigator Gary Goeller at 785-623-0541 or email at g.goeller@kcc.ks.gov
24. 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 Neal Concrete Inc's vehicles operating authority and/or the impoundment of Neal Concrete Inc's vehicles.

Signed

Date

8-30-17



ATTACHMENT "B"

KCC WRITTEN STATEMENT

Signed Statement of Brian Neal, Neal Concrete Inc.

Representative of Motor Carrier Brian Neal, Vice-President
USDOT# 1215298

I, Brian Neal, Vice-President , voluntarily give the following statement to Gary Goeller, KS8204 , who has identified himself/herself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.

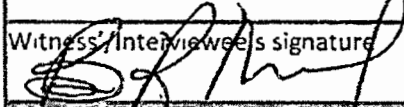
NARRATIVE:

Hired Don Koehn as a part time CDL driver, paid in cash, approximately 2 weeks ago, April 23, 2017 first trip. And on 05.07.2017 Operated a 1987 International KS tag , VIN# 495844, GVWR 28,000 on a trip from 1303 Berlin, Haysville, KS to 2213 Quivera, Kechi, KS

I have read the foregoing statement consisting of 1 page(s). It is true, accurate and complete to the best of my knowledge. I reviewed any changes and they bear my initials.

I sign this statement under the penalty of perjury in the presence of Gary Goeller, KS8204.

Witness/Interviewee's signature

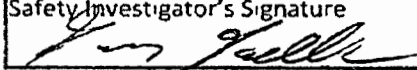


Date

5-18-17

I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.

Safety Investigator's Signature



Date

5-18-17

CERTIFICATE OF SERVICE

18-TRAM-135-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 SEP 21 2017.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

BRIAN R. NEAL, VICE PRESIDENT
NEAL CONCRETE, INC.
1906 W 69TH N
WICHITA, KS 67204-1055
captainconcrete0472@yahoo.com

/s/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

SEP 22 2017