

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

July 29, 2014

15-TRAM-008-PEN

Boyd Mann, Operations Manager  
Mann Fence Company, Inc.  
15415 S 169 Hwy  
Olathe, Kansas 66062

This is a notice of a penalty assessment for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 28, 2014, by Kansas Corporation Commission Special Investigators Verna Jackson and B.K. Smith. 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 an \$850 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 785-271-3113.

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 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

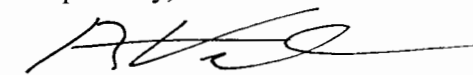
### **IF YOU CONTEST THE PENALTY:**

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; K.S.A. 2013 Supp. 77-542.

### **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 operating authority.

Respectfully,

  
Robert E. Vincent  
Litigation Counsel  
(785) 271-3273

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

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

In the Matter of the Investigation of **Mann**      )  
**Fence Company, Inc., of Olathe, Kansas,**      )  
Regarding the Violation of the Motor Carrier      )  
Safety Statutes, Rules and Regulations and the      ) Docket No. 15-TRAM-008-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 issues by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2013 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. 2013 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. 2013 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. Mann Fence Company, Inc. (Mann Fence Co.) does not currently possess operating authority from the Commission. However, Mann Fence Co. operates under USDOT number 399865.

5. No representative from Mann Fence Co. has attended a Commission-sponsored Motor Carrier Education and Instructional Meeting.

6. Mann Fence Co. is a private motor carrier which primarily hauls building materials, machinery, large objects, and fencing materials.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on May 28, 2014, Commission Staff (Staff) Special Investigators Verna Jackson and B.K. Smith conducted a compliance review of the operations of Mann Fence Co. 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, Ms. Jackson and Mr. Smith identified three (3) violations of the Motor Carrier Safety Regulations.

- a. On May 21, 2014, Mann Fence Co. required or permitted its driver, Tracy Saunders, to operate a commercial motor vehicle, a 1998 Ford truck, Vehicle Identification Number (VIN) ending in 15241, in intrastate commerce in and around the area of Olathe, Kansas. This trip is

evidenced by a Driver's Vehicle Inspection Report dated May 21, 2014, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Mann Fence Co. did not have an alcohol and/or controlled substance testing program for its drivers. Mann Fence Co.'s failure to establish an alcohol and/or controlled substances program for its drivers that complies with the procedures detailed 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) as adopted by K.A.R. 82-4-3c, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$500.

- b. On May 13, 2014, Mann Fence Co. required or permitted its driver, Ben Ream, to operate a commercial motor vehicle, a 2008 Ford truck, VIN ending in 07003, in intrastate commerce in and around the area of Overland Park, Kansas. This trip is evidenced by a Driver's Vehicle Inspection Report dated May 13, 2014, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. At the time of this transportation, Mann Fence Co. failed to require that Ben Ream be medically examined and certified as physically fit to operate a commercial motor vehicle. Mann Fence Co.'s failure to confirm that each of its drivers are medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle, and maintaining documentation of the medical certificate in the driver qualification file, is a violation of 49 C.F.R. § 391.45(b)(1) and 49 C.F.R. § 391.51(b)(7)(i) as

adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine in the amount of \$250.

- c. On May 27, 2014, Mann Fence Co. required or permitted its driver, Tracy Saunders, to operate a commercial motor vehicle, a 1998 Ford truck, VIN ending in 15241, in intrastate commerce in and around the area of Overland Park, Kansas. This trip is evidenced by a Driver's Vehicle Inspection Report dated May 27, 2014, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, Mann Fence Co. failed to maintain the responses of each state agency to the annual Motor Vehicle Record (MVR) inquiry of its driver. Mann Fence Co.'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. §§ 391.25(a),(c) as adopted by K.A.R. 82-4-3g, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$100.

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

8. Based upon the available facts, Staff recommends the Commission find Mann Fence Co. committed three (3) violations 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 \$850 for three (3) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Mann Fence Co. 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 Mann Fence Co. submit to one follow-up safety compliance review within the next eighteen (18) 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 Mann Fence Co. because it is a motor carrier as defined in K.S.A. 2013 Supp. 66-1,108.

13. The Commission finds Mann Fence Co. committed three (3) violations of Kansas law that govern 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. Mann Fence Company, Inc., of Olathe, Kansas is hereby assessed an \$850 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. Mann Fence Co. 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, Mann Fence Co. is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2013 Supp. 77-537 and K.S.A. 2013 Supp. 77-542, 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 Mann Fence Co.'s right to a hearing, and this Penalty Order will become a Final Order assessing an \$850 civil penalty against Mann Fence Co., and ordering Mann Fence Co. 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 eighteen (18) 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 \$850 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 Mann Fence Co.'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.**

Albrecht, Chair; Emler, Com.; Apple, Com.

Dated: JUL 29 2014










ORDER MAILED JUL 30 2014

Thomas A. Day  
Acting Executive Director

REV



## **ATTACHMENT “A”**

	<b>US DOT #</b> 399865	<b>Legal:</b> MANN FENCE COMPANY INC <b>Operating (DBA):</b>			
<b>MC/MX #:</b>		<b>Federal Tax ID:</b> 			
<b>Review Type:</b> Compliance Review (CR)					
<b>Scope:</b> Principal Office		<b>Location of Review/Audit:</b> Company facility in the U. S.			<b>Territory:</b>
<b>Operation Types</b>		<b>Interstate</b>	<b>Intrastate</b>		
<b>Carrier:</b> HM		N/A		<b>Business:</b> Corporation	
<b>Shipper:</b> N/A		N/A		<b>Gross Revenue:</b> 	
<b>Cargo Tank:</b> N/A		<b>for year ending:</b> 12/31/2013			
<b>Company Physical Address:</b> 					
<b>Contact Name:</b> Boyd Mann <b>Phone numbers:</b> (1)  (2)  <b>Fax</b> <b>E-Mail Address:</b> 					
<b>Company Mailing Address:</b> 15415 S 169 HWY OLATHE, KS 66062					
<b>Carrier Classification</b> Private Property					
<b>Cargo Classification</b> Building Materials Machinery, Large Objects Other: Fencing					
<b>Hazardous Materials</b> 9 Miscellaneous HM : Carried : Non-Bulk					
<b>Equipment</b>					
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>		<b>Owned Term Leased Trip Leased</b>
Truck	2	1	0	Trailer	1 0 0
Power units used in the U.S.: 3 Percentage of time used in the U.S.: 100					
<b>Does carrier transport placardable quantities of HM?</b> No <b>Is an HM Permit required?</b> N/A					
<b>Driver Information</b>					
	<b>Inter</b>	<b>Intra</b>			
< 100 Miles:	4		<b>Average trip leased drivers/month:</b> 0 <b>Total Drivers:</b> 4 <b>CDL Drivers:</b> 1		
>= 100 Miles:					





MANN FENCE COMPANY INC  
U.S. DOT #: 399865

Review Date:  
05/28/2014

**Part A**

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

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

**Person(s) Interviewed**

**Name:** Boyd Mann

**Title:** Operations Manager

**Name:** Scott Mann SR

**Title:** President





MANN FENCE COMPANY INC  
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05/28/2014

### Part B Violations

1 FEDERAL ACUTE	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
<b>Description</b> Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. <b>Example</b> Tracey Saunders 5-21-14, PPOB to 177th Lone Elm Olathe ks drove Unit #103				
2 FEDERAL	Primary: 387.7(d)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
<b>Description</b> Failing to maintain at principal place of business required proof of financial responsibility. <b>Example</b> Unit 105 5-31-2014 1240 W 70 Terr KC MO Vehicle went from PPOB Carrier had Certificate of minimum insurance in file however did not have copy of MCS90				
3 STATE	Primary: 391.45(b)(1) Secondary: 391.11(a) CFR Equivalent: 391.45(b)(1)	Discovered 1	Checked 4	Drivers/Vehicles In Violation Checked 1 4
<b>Description</b> Using a driver not medically examined and certified during the preceding 24 months. <b>Example</b> Ben Ream 05-13-2014 Drove unit 104 from PPOB to 113th and Neiman Overland Park, KS				
4 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 1	Checked 4	Drivers/Vehicles In Violation Checked 1 4
<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> Tracey D. Saunders 5-27-2014 Drove from PPOB to 127th and Antioch, Overland Park KS				
5 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 1	Checked 2	Drivers/Vehicles In Violation Checked 1 2
<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> Tracey D. Saunders 5-27-2014 Drove from PPOB to 127th and Antioch, Overland Park KS				





**MANN FENCE COMPANY INC**  
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### Part B Violations

6 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2																												
<b>Description</b> Falling to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Tracey D. Saunders 5-27-2014 Drove from PPOB to 127th and Antioch, Overland Park KS																																	
<b>Safety Fitness Rating Information:</b> Total Miles Operated 30,000 Recordable Accidents 1 Recordable Accidents/Million Miles 33.33		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 :  <b>SATISFACTORY</b>		<table border="1"><thead><tr><th>Rating Factors</th><th></th><th>Acute</th><th>Critical</th></tr></thead><tbody><tr><td>Factor 1:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 2:</td><td>C</td><td>1</td><td>0</td></tr><tr><td>Factor 3:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 4:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 5:</td><td>S</td><td>0</td><td>0</td></tr><tr><td>Factor 6:</td><td>S</td><td>-</td><td>-</td></tr></tbody></table>				Rating Factors		Acute	Critical	Factor 1:	S	0	0	Factor 2:	C	1	0	Factor 3:	S	0	0	Factor 4:	S	0	0	Factor 5:	S	0	0	Factor 6:	S	-	-
Rating Factors		Acute	Critical																														
Factor 1:	S	0	0																														
Factor 2:	C	1	0																														
Factor 3:	S	0	0																														
Factor 4:	S	0	0																														
Factor 5:	S	0	0																														
Factor 6:	S	-	-																														

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





## Part B Requirements and/or Recommendations

1. "FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012.

The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.

The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

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

DESCRIPTION OF PROCESS BREAKDOWN, Carrier failed to implement alcohol and or controlled substance testing program.

### 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 substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- 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 controlled-substance and alcohol violations.





**MANN FENCE COMPANY INC**  
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## 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.

3. Ensure that all persons designated to supervise CDL drivers receive at least 60 minutes of training on alcohol misuse and receive at least an additional 60 minutes of training on controlled substance use.
4. Ensure that you give drivers a written drug policy and educational materials.
5. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN, Carrier used driver not medically examined and certified, failed to maintain responses of each state agency MVR, and failed to process the annual review and certification of the MVR.

### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

### 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.

6. Retain on file a properly completed & current copy of your form MCS-90 financial responsibility endorsement.





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### Part B Requirements and/or Recommendations

7. Carrier must maintain an accident register on file for three years after the date of each accident.
  8. This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.
  9. "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.

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. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

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

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 15 days and any additional evidence necessary to prove the corrective action has been taken to:







**MANN FENCE COMPANY INC**  
U.S. DOT #: 399865

Review Date:  
05/28/2014

### Part B Requirements and/or Recommendations

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

Ensure that a CC copy of the letter is mailed to:  
Division Administrator/Max Stratham  
Federal Motor Carrier Safety Administration  
1303 First American Place, Suite 200  
Topeka, KS 66604

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

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

The Kansas Corporation Commission requires you to prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 15 days, and any additional evidence necessary to prove the corrective action has been taken to:

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Road  
Topeka, KS 66604

10. "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 Mann Fence Company INC's operating authority and/or the impoundment of Mann Fence Company INC's vehicles.

  
Carrier Representative

May 28, 2014  
Date

Boyd Mann



## **ATTACHMENT “B”**

# DRIVER'S VEHICLE INSPECTION REPORT

Check any defective item and give details under "Remarks."

Date: 5-21-14

Truck/Tractor Number: 103

	Service brakes including trailer brake connections		Windshield wipers
/	Parking (hand) brake	/	Rear vision mirrors
/	Steering mechanism	/	Coupling devices
/	Lighting devices and reflectors	/	Wheels and rims
/	Tires	/	Emergency equipment
/	Horn		

Trailer(s) Number(s): \_\_\_\_\_

	Brake connections		Landing gear
/	Brakes	/	Lights - All
/	Coupling chains	/	Springs
/	Coupling (King) pin	/	Tarpaulin
/	Doors		Tires
/	Hitch		Wheels

Remarks: 115690 - 115708  
177th  
177th + Lone Elm  
Olathe, Mo

- ☒ Condition of the above vehicle is satisfactory Troy Saunders  
 Driver's Signature
- ☐ Above defects corrected
- ☐ Above defects need not be corrected for safe operation of vehicle

\_\_\_\_\_  
 Mechanics Signature Date Driver's Signature Date

## **ATTACHMENT "C"**

# DRIVER'S VEHICLE INSPECTION REPORT

Check any defective item and give details under "Remarks."

Date: 5/13/14

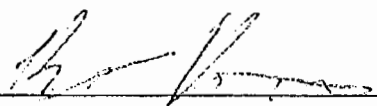
Truck/Tractor Number: 104

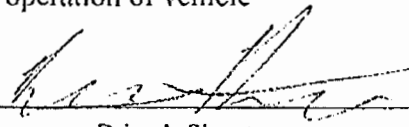
<input checked="" type="checkbox"/>	Service brakes including trailer brake connections	<input checked="" type="checkbox"/>	Windshield wipers
<input checked="" type="checkbox"/>	Parking (hand) brake	<input checked="" type="checkbox"/>	Rear vision mirrors
<input checked="" type="checkbox"/>	Steering mechanism	<input checked="" type="checkbox"/>	Coupling devices
<input checked="" type="checkbox"/>	Lighting devices and reflectors	<input checked="" type="checkbox"/>	Wheels and rims
<input checked="" type="checkbox"/>	Tires	<input checked="" type="checkbox"/>	Emergency equipment
<input checked="" type="checkbox"/>	Horn		

Trailer(s) Number(s): \_\_\_\_\_

	Brake connections		Landing gear
	Brakes		Lights - All
	Coupling chains		Springs
	Coupling (King) pin		Tarpaulin
	Doors		Tires
	Hitch		Wheels

Remarks: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- ☒ Condition of the above vehicle is satisfactory   
 Driver's Signature
- ☐ Above defects corrected
- ☐ Above defects need not be corrected for safe operation of vehicle

\_\_\_\_\_  
 Mechanics Signature      Date            5/13/14  
 Driver's Signature      Date

## **ATTACHMENT “D”**

# DRIVER'S VEHICLE INSPECTION REPORT

Check any defective item and give details under "Remarks."

Date: 5-27-14

Truck/Tractor Number: 103

<input checked="" type="checkbox"/>	Service brakes including trailer brake connections	<input checked="" type="checkbox"/>	Windshield wipers
<input checked="" type="checkbox"/>	Parking (hand) brake	<input checked="" type="checkbox"/>	Rear vision mirrors
<input checked="" type="checkbox"/>	Steering mechanism	<input checked="" type="checkbox"/>	Coupling devices
<input checked="" type="checkbox"/>	Lighting devices and reflectors	<input checked="" type="checkbox"/>	Wheels and rims
<input checked="" type="checkbox"/>	Tires	<input checked="" type="checkbox"/>	Emergency equipment
<input checked="" type="checkbox"/>	Horn	<input checked="" type="checkbox"/>	

Trailer(s) Number(s): \_\_\_\_\_

<input checked="" type="checkbox"/>	Brake connections	<input checked="" type="checkbox"/>	Landing gear
<input checked="" type="checkbox"/>	Brakes	<input checked="" type="checkbox"/>	Lights - All
<input checked="" type="checkbox"/>	Coupling chains	<input checked="" type="checkbox"/>	Springs
<input checked="" type="checkbox"/>	Coupling (King) pin	<input checked="" type="checkbox"/>	Tarpaulin
<input checked="" type="checkbox"/>	Doors	<input checked="" type="checkbox"/>	Tires
<input checked="" type="checkbox"/>	Hitch	<input checked="" type="checkbox"/>	Wheels

Remarks: 115736 - 115762

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Condition of the above vehicle is satisfactory

*Tracy Saunders*

Driver's Signature



Above defects corrected



Above defects need not be corrected for safe operation of vehicle

\_\_\_\_\_  
Mechanics Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Driver's Signature

\_\_\_\_\_  
Date

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROBERT VINCENT, LITIGATION ATTORNEY KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
BOYD MANN, OPERATIONS MANAGER MANN FENCE COMPANY, INC. 15415 S 169 HWY OLATHE, KS 66062		

ORDER MAILED JUL 30 2014

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.