

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20170914153749
Kansas Corporation Commission

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

Pat Applc, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

September 14, 2017

18-TRAM-121-PEN

Mark Redden, President
Heavy Equipment Service Inc.
1100 W Grand Ave Ste B
Salina, Kansas 67401

Certified Mail Receipt No. 70161970000105737204

This is a notice of a penalty assessment against Heavy Equipment Service Inc. for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 27, 2017, by Kansas Corporation Commission Special Investigator(s) Gregory Askren. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

Heavy Equipment Service has been assessed a \$1,650 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$1,650 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.

HEAVY EQUIPMENT SERVICE IS A NEW ENTRANT MOTOR CARRIER AND IS ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) assessed motor carriers in accordance with the FY 2018 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

(1) the carrier signs and submits within fifteen (15) days from the date of this Penalty Order, the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within 30 days from the date of the attached Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future; and

(3) within thirty (30) days from the date of the attached Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter.

(4) within 18 months from the date of the attached Penalty Order, the carrier must be available for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended

Penalty Order assessing the reduced penalty and setting out the terms and conditions stated above will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$825 would be due within thirty (30) days from the date of service of the Amended Penalty Order.

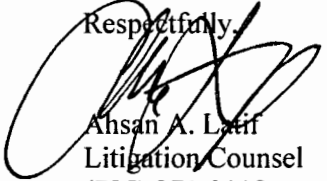
IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Heavy Equipment Service Inc. 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 by mailing a copy of the request for hearing to Litigation Counsel 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 of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$1,650 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If Heavy Equipment Service submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order may be issued assessing the reduced penalty of \$825 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,



Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

REDUCED PENALTY AGREEMENT
18-TRAM-121-PEN

Heavy Equipment Service Inc. (Heavy Equipment Service) hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated September 14, 2017. Heavy Equipment Service has agreed to comply with the following terms and obligations:

1. Heavy Equipment Service has submitted, within fifteen (15) days from the date of the Penalty Order issued on September 14, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Heavy Equipment Service will, within 30 days from the date of the Penalty Order dated September 14, 2017, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff before my company can be eligible for the 50% reduced penalty.

3. Heavy Equipment Service will, within thirty (30) days from the date of the Penalty Order dated September 14, 2017, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.

4. Heavy Equipment Service will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Heavy Equipment Service Inc. understands that if approved, Transportation Litigation Counsel will file a Motion for Amended Penalty Order with this Agreement attached to the motion. The Amended Penalty Order will assess Heavy Equipment Service a fifty-percent (50%) reduced penalty of \$825, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Heavy Equipment Service will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2017.

Heavy Equipment Service Inc.

Mark Redden
President

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

**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 **Heavy**)
Equipment Service Inc., of Salina, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-121-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. Heavy Equipment Service Inc. (Heavy Equipment Service) has private operating authority from the Commission and further operates under USDOT number 2843471.

5. Mark Redden attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on April 4, 2016, on behalf of Heavy Equipment Service.

6. Heavy Equipment Service is a private motor carrier which primarily hauls tools.

7. Heavy Equipment Service is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on July 27, 2017, Commission Staff (Staff) Special Investigator(s) Gregory Askren conducted a compliance review of the operations of Heavy Equipment Service. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator(s) identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On March 23, 2017, Heavy Equipment Service required or permitted its driver, Mark Redden, to operate a CDL-required commercial motor vehicle, a 2005 Peterbilt, VIN ending in 871390, GVWR 33,000 lbs., in intrastate commerce from Salina, Kansas to Culver, Kansas. This trip is

evidenced by Driver's Time Record (100 air-mile radius) for March 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Heavy Equipment Service failed to require its driver Mark Redden to update his medical certificate within the previous 24 months. Mr. Redden's medical certificate expired on March 17, 2017. *See*, KCC Written Statement by Mark Redden, dated July 27, 2017, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. Heavy Equipment Service's failure to confirm that its driver is 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. 391.41(a)(1)(i), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

- b. During the transportation described in paragraph a., above, Heavy Equipment Service 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 special investigator found two (2) violations of this type. 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. 2016 Supp. 66-1,112. Staff recommends a fine of \$250.

- c. During the transportation described in paragraph a., above, Heavy Equipment Service failed to require its driver to submit time records for the previous seven (7) days' time prior to one worked. The special investigator found 16 violations of this type. The carrier's failure to require its drivers 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 \$500.
- d. During the transportation described in paragraph a., above, Heavy Equipment Service was enrolled in an alcohol and controlled substance testing consortium, but failed to have both its CDL drivers listed in the testing pool, thereby not allowing each driver an equal chance of being selected for testing each time selections are made. The carrier's failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected for testing each time selections are made is in violation of 49 C.F.R. 382.305(i)(2), 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.

IV. STAFF'S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Heavy Equipment Service committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Staff recommends a civil penalty of \$1,650 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Heavy Equipment Service Inc. is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it submits to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the Reduced Penalty Agreement, which is attached to the Notice of Penalty Assessment.

12. Staff recommends Heavy Equipment Service Inc. submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that Heavy Equipment Service attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

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

V. CONCLUSIONS OF LAW

15. The Commission finds it has jurisdiction over Heavy Equipment Service because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$1,650 should be assessed to Heavy Equipment Service for committing four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

17. The Commission finds Heavy Equipment Service is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein. The carrier must submit to Litigation Counsel, within fifteen (15) days from the date of this Penalty Order, the signed and dated Reduced Penalty Agreement, which states it will comply with the reduced penalty terms and obligations set out therein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Heavy Equipment Service Inc., of Salina, Kansas is hereby assessed a penalty of \$1,650 for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations. Payment of \$1,650 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.

B. Heavy Equipment Service is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. 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.

C. Heavy Equipment Service must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Heavy Equipment Service 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 motor carrier at a later date to determine an appropriate time for this review.

E. If Heavy Equipment Service does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$1,650 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Heavy Equipment Service's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. **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, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel within fifteen (15) days from the date of service of this Order. 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 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 Heavy Equipment Service's right to a hearing.

G. On September 14, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105737204. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

H. 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.

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 14 2017



Lynn M. Retz
Secretary to the Commission


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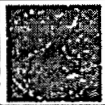
SEP 15 2017

ATTACHMENT "A"

Kansas Corporation Commission

	US DOT # 2843471	Legal: HEAVY EQUIPMENT SERVICE INC Operating (DBA):
MC/MX #:	[REDACTED]	Federal Tax ID [REDACTED] (EIN)
Review Type: Compliance Review (CR)		
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S. Territory: E
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:	Mark Redden	
Phone numbers: (1)	[REDACTED]	
E-Mail Address:	[REDACTED]	
Company Mailing Address:		
1100 W GRAND AVE STE E SALINA, KS 67401-1863		
Carrier Classification		
Private Property		
Cargo Classification		
Other. Tools		
Equipment		
	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		
	Inter	Intra
< 100 Miles:	2	
>= 100 Miles:	0	
Average trip leased drivers/month: 0		
Total Drivers: 2		
CDL Drivers: 2		





HEAVY EQUIPMENT SERVICE INC
U.S. DOT #. 2843471

Review Date:
07/27/2017

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
1500 SW Arrowhead Rd
Topeka, Ks 66604-4027 1-785-271-3145

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Mark Redden

Title: President

Name: [REDACTED]





HEAVY EQUIPMENT SERVICE INC
U.S. DOT #: 2843471

State #: [REDACTED]

Review Date:
08/18/2017

Part B Violations

1 STATE	Primary: 382.305(i)(2) CFR Equivalent: 382.305(i)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<p>Description Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.</p> <p>Example Trip date: March 23, 2017. Driver [REDACTED] Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. [REDACTED] GVWR 33000. Heavy Equipment Service Inc. enrolled in a testing consortium but failed to have both drivers in the testing pool. [REDACTED] hire date was 1/1/2016 [REDACTED] hire date was 1/1/2016. [REDACTED] had no runs using the CDL required vehicle at the time of the investigation.</p>					
2 STATE	Primary: 391.25(a) CFR Equivalent: 391.25(a)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
<p>Description Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.</p> <p>Example Trip date: March 23, 2017. Driver [REDACTED] Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. [REDACTED] GVWR 33000. Heavy Equipment Service failed to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months.;</p>					
3 STATE	Primary: 391.45(b)(1) Secondary: 391.11(a) CFR Equivalent: 391.45(b)(1)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
<p>Description Using a driver not medically examined and certified during the preceding 24 months.</p> <p>Example Trip date: March 23, 2017. Driver [REDACTED] Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. 647264 GVWR 33000. Heavy Equipment Service Inc. used a driver not medically examined in the preceding 24 months. [REDACTED] medical card expired on 3/17/2017.</p>					





HEAVY EQUIPMENT SERVICE INC
U.S. DOT #: 2843471

State #: [REDACTED]

Review Date:
07/27/2017

Part B Violations

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

Description
Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).
Trip date: March 23, 2017.
Driver: [REDACTED]
Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. [REDACTED] GVWR 33000.
Heavy Equipment Service Inc. failed to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2)

5 STATE	Primary: 391.51(b)(6)	Discovered 2	Checked 2	Drivers/Vehicles	
	CFR Equivalent: 391.51(b)(6)			In Violation	Checked

Description
Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.
Example
Trip date: March 23, 2017.
Driver: [REDACTED]
Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. [REDACTED] GVWR 33000.
Heavy Equipment Service Inc. failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27;

6 STATE	Primary: 395.8(a)	Discovered 16	Checked 60	Drivers/Vehicles	
	CFR Equivalent: 395.8(a)			In Violation	Checked

Description
Failing to require driver to make a record of duty status.
Example
Trip date: March 23, 2017.
Driver: [REDACTED]
Travelled on an intrastate trip from Salina Ks. to Gypsum Ks. operating a 2005 PTRB. Vin # [REDACTED] 871390, Ks. Reg. [REDACTED] GVWR 33000.
Heavy Equipment Service Inc. failed to have driver complete the previous 7 days of time sheet. [REDACTED] had entries on the 3rd and 23rd of March time sheet but not other entries.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	412	Number of Vehicle Inspected (CR):	1
Recordable Accidents	0	OOS Vehicle (MCMIS):	0
		Number of Vehicles Inspected (MCMIS):	0

Your proposed safety rating is :

This Review is not Rated.





HEAVY EQUIPMENT SERVICE INC
U.S. DOT #: 2843471

Review Date:
07/27/2017

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>

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

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

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

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. Obtain a copy of each driver's driving record and review it annually.



HEAVY EQUIPMENT SERVICE INC
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5. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months
6. 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
7. 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.

8. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Carrier official must develop a clear policy for monitoring time sheets.

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.

Seek Out Resources:

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

9. UNSAFE DRIVING BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - Heavy Equipment Service Inc. needs to develop policy to adhere to all regulations

BASIC SPECIFIC RECOMMENDED REMEDIES

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





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Procedures.

- Develop a policy stating that drivers are responsible for adhering to all safe-driving-related Federal, State, and local laws and ordinances, including the prohibition against using radar detectors and the wearing of seatbelts.
- Develop a policy requiring drivers to submit copies of all roadside inspections and citations for moving violations to carrier management within 24 hours.
- Develop a policy penalizing drivers for speeding even if a Federal or State citation is not issued on the road.
- Establish a policy that prohibits dispatchers from assigning drivers a load that cannot be completed without speeding.
- Develop a policy that prohibits passengers from being on board non-passenger vehicles without management approval.
- 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 unsafe-driving 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

10. UNSAFE DRIVING BASIC PROCESS BREAKDOWN: Monitoring and Tracking

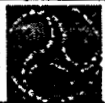
DESCRIPTION OF PROCESS BREAKDOWN - Heavy Equipment Service Inc. needs to monitor annual MVR records.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Ensure that the safety director/dispatchers ascertain that all routes can be completed within speed limits.
- Maintain roadside inspection reports, moving violation records, and "How am I driving?" complaints to help evaluate the performance of all staff (drivers and managers) involved in safe driving and the effectiveness of the policies and procedures
- 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 safe driving. If a driver seems to have license-related problems, 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.
- Ensure that dispatchers and/or the safety manager monitor drivers' speed for violations with use of an electronic or manual movement record that is, that they track driver movements via driver reports, global positioning systems (GPS), and travel receipts
- Evaluate personnel who are monitoring drivers' safety performance by making sure that they are using inspections and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- Place a "How am I driving?" sticker on every truck to get feedback from the public on drivers exhibiting unsafe behaviors on the road. Assess feedback for safety implications.
- Regularly evaluate the company's unsafe-driving-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 unsafe-driving regulations and company policies.
- Implement a system for keeping accurate records of employee driving-safety training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method
- When monitoring and tracking any unsafe-driving-related issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).





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Passenger Carrier Only:

- Monitor and track unsafe-driving passenger complaints and assess safety implications.

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.

11. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN. Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - Heavy equipment Service Inc failed to have policy to keep drivers in compliance to testing requirements.

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.

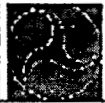
Seek Out Resources:

- 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.

12. DRIVER FITNESS BASIC PROCESS BREAKDOWN. Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - Heavy Equipment Service Inc. needs to develop policy that ensures semi-annual reviews for the DQ files to insure compliance.





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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 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](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

13. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - Heavy Equipment Service Inc. failed to review records to ensure that all drivers medical exams are done and current.

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 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





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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

14. Provide employees with a written controlled substance and alcohol testing policy that complies with all the requirements noted in Part 382.601(b). Also, ensure you maintain a certificate signed by the employee certifying they have received your company drug and alcohol testing policy.
15. Provide new-hire and refresher training, to all managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result, referral to a substance-abuse professional (SAP); and confidentiality requirements in relation to recordkeeping.
16. Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

17. 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.
18. Stay in contact with your KCC investigator for any questions or issues with continued safety compliance.
SI Gregory Askren
785.483 0212
g.askren@kcc.ks.gov
19. 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 the Kansas Motor Carrier Safety Statutes and Regulations could result in suspension of Heavy Equipment Service Inc. operating authority and/or the impoundment of Heavy Equipment Service Inc. vehicles.

Mark E. Reider ^{President}
7-27-17

NAME OF CARRIER OFFICIAL, TITLE
Date



ATTACHMENT "B"

DRIVER'S TIME RECORD (100 air-mile radius)

Driver's Name (print) Mark Redden

Employee No. _____

Month March Year 2017

DRIVERS MAY PREPARE THIS REPORT INSTEAD OF "DRIVERS DAILY LOG" IF THE FOLLOWING APPLIES:

- *Operates within 100 air-mile radius of the normal work reporting location.
- *Returns to normal work reporting location and is released from work within 12 consecutive hours.
- *At least 10 consecutive hours off duty separate each 12 hours on duty.

INTERMITTENT DRIVERS

Shall complete this form for 7 days preceding any day driving is performed. This includes the preceding month.

Date	Start Time	End Time	Total Hours	Truck Number	Trip Information TO - FROM
1					
2					
3	9:30 A.M.	2:00 P.M.	4.5 hrs	1	Assistia - Salina Shop
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23	2:30 P.M.	7:00 P.M.	4.5 hrs	1	Country Club/Cypress Valley - Salina Shop
24					
25					
26					
27					
28					
29					
30					
31					

To be prepared monthly by each DOT certified driver unless time record is exclusively kept on Driver's Daily Log. Indicate "days off." Check box if no driving is performed during this month and the first 7 days of the following month. Mail this report to your Division Manager of Administration.

ATTACHMENT "C"

KCC WRITTEN STATEMENT

Signed Statement of <u>Mark Redden</u> Redden <i>Redden</i>	
<p>Representative of Motor Carrier <u>Heavy Equipment Service Inc.</u> USDOT# <u>2843471</u> I, <u>Mark Redden</u>, voluntarily give the following statement to <u>SI Gregory P Askren</u>, 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.</p>	
<p>NARRATIVE: <i>My medical card was expired on 3-17-17. I did not take time to get the current medical card. The consortium sent the drug test kit which I did not take time to get the test done.</i></p>	
<p>I have read the foregoing statement consisting of <u>1</u> page(s). It is true, accurate and complete to The best of my knowledge. I reviewed any changes and they bear my initials.</p>	
<p>I sign this statement under the penalty of perjury in the presence of <u>Gregory Askren</u>.</p>	
Witness'/Interviewee's signature <i>Mark Redden</i>	Date <i>7-27-17</i>
<p>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.</p>	
Safety Investigator's Signature <i>Gregory P. Askren</i>	Date <i>7-27-17</i>

CERTIFICATE OF SERVICE

18-TRAM-121-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 14 2017.

MARK REDDEN, PRESIDENT
HEAVY EQUIPMENT SERVICE INC
1100 W GRAND AVE STE B
SALINA, KS 67401-1863
Fax: 785-404-2344
mredden1@eaglecom.net

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

/s/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

SEP 15 2017