

CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT

19-TRAM-222-PEN

December 18, 2018

Jay Unruh, President
Superior Erosion Control Inc.
8935 N Halstead Rd
Moundridge, KS 67107

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

IF YOU ACCEPT THE PENALTY: Superior Erosion Control has been assessed an \$800 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$800, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Superior Erosion Control to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Superior Erosion Control must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$800 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

A handwritten signature in blue ink, appearing to read "Ahsan A. Latif".
Ahsan A. Latif
Litigation Counsel
(785) 271-3118

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

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

In the Matter of the Investigation of **Superior**)
Erosion Control Inc., of Moundridge, KS,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 19-TRAM-222-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). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2017 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. 2017 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. 2017 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

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

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

II. BACKGROUND

4. Superior Erosion Control Inc. (Superior Erosion Control) operates under USDOT number 1983722.

5. Jay Unruh attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on April 27, 2015, on behalf of Superior Erosion Control.

6. Superior Erosion Control is a private motor carrier which primarily hauls motor vehicles, grain, feed, hay, and lawn equipment.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on November 13, 2018, Commission Staff (Staff) Special Investigator Wade Patterson conducted a safety compliance review of the operations of Superior Erosion Control. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On August 29, 2018, Superior Erosion Control required or permitted its driver, Marshall Holdeman, to operate a CDL-required commercial motor vehicle, a 2015 Ford, VIN ending in 32767, GVWR 14,000 lbs., pulling a

2015 PJ Trailer, VIN ending in 1220045, GVWR 25,000 lbs., in intrastate commerce from Moundridge, Kansas to Wichita, Kansas. This trip is evidenced by an e-mail from Jay Unruh to Wade Patterson, dated November 9, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Superior Erosion Control failed to first designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a, above, Superior Erosion Control 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. This carrier was cited for the same violation in a compliance review conducted on April 19, 2017. Superior Erosion Control'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. 2017 Supp. 66-1,112. Staff recommends an enhanced fine of \$200.

- c. During the transportation described in paragraph a, above, Superior Erosion Control operated a commercial motor vehicle without proper Kansas Corporation Commission authority. The carrier's commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2017 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Superior Erosion Control committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$800 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Superior Erosion Control be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

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

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Superior Erosion Control because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Superior Erosion Control committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Superior Erosion Control Inc., of Moundridge, KS is hereby assessed a \$800 civil penalty for three (3) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Superior Erosion Control is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

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

D. Pursuant to K.S.A. 2017 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Superior Erosion Control's right to a hearing, and this Penalty Order will become a Final Order assessing a \$800 civil penalty against Superior Erosion Control, and ordering a representative from Superior Erosion Control to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2017 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$800 is due in thirty (30) days from the date of service of this Order. Payment of \$800 must be made through

your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

G. Failure to pay the \$800 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Superior Erosion Control's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner







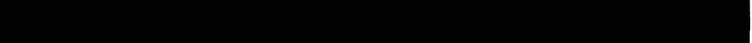

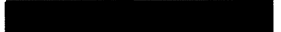
Dated: 12/18/2018




Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 1983722	Legal: SUPERIOR EROSION CONTROL INC Operating (DBA):																			
MC/MX #:		Federal Tax ID:  (EIN)																			
Review Type: Non-ratable Review - CSA		Focused Investigation																			
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.		Territory:																	
Operation Types <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Interstate</td> <td style="width:15%;">Intrastate</td> <td colspan="4"></td> </tr> <tr> <td>Carrier: HM</td> <td>N/A</td> <td colspan="4" rowspan="3"> Business: Corporation Gross Revenue:  for year ending: 12/31/2017 </td> </tr> <tr> <td>Shipper: N/A</td> <td>N/A</td> </tr> <tr> <td>Cargo Tank: N/A</td> <td></td> </tr> </table>						Interstate	Intrastate					Carrier: HM	N/A	Business: Corporation Gross Revenue:  for year ending: 12/31/2017				Shipper: N/A	N/A	Cargo Tank: N/A	
Interstate	Intrastate																				
Carrier: HM	N/A	Business: Corporation Gross Revenue:  for year ending: 12/31/2017																			
Shipper: N/A	N/A																				
Cargo Tank: N/A																					
Company Physical Address:  MOUNDRIDGE, KS 67107-8093																					
Contact Name: Jay Unruh Phone numbers: (1 ) E-Mail Address: 																					
Company Mailing Address:  MOUNDRIDGE, KS 67107-8093																					
Carrier Classification Private Property																					
Cargo Classification <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Motor Vehicles</td> <td style="width:33%;">Grain, Feed, Hay</td> <td style="width:34%;">Other: Lawn Equipment</td> </tr> </table>						Motor Vehicles	Grain, Feed, Hay	Other: Lawn Equipment													
Motor Vehicles	Grain, Feed, Hay	Other: Lawn Equipment																			
Hazardous Materials <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;">3 Combustible liquid</td> <td style="width:10%;">: Carried</td> <td style="width:10%;">: Non-Bulk</td> <td style="width:25%;">9 Miscellaneous HM</td> <td style="width:10%;">: Carried</td> <td style="width:10%;">: Non-Bulk</td> </tr> </table>						3 Combustible liquid	: Carried	: Non-Bulk	9 Miscellaneous HM	: Carried	: Non-Bulk										
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Equipment <table style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td>2</td> <td>0</td> <td>0</td> <td>: Trailer</td> <td>2</td> <td>0</td> <td>0</td> </tr> </table>							Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	2	0	0	: Trailer	2	0	0
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased														
Truck	2	0	0	: Trailer	2	0	0														
Power units used in the U.S.: 2 Percentage of time used in the U.S.: 100																					
Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A																					
Driver Information <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%;">Inter</td> <td style="width:10%;">Intra</td> <td style="width:50%;">Average trip leased drivers/month: 0</td> </tr> <tr> <td>< 100 Miles:</td> <td></td> <td></td> <td>Total Drivers: 1</td> </tr> <tr> <td>>= 100 Miles:</td> <td>1</td> <td></td> <td>CDL Drivers: 1</td> </tr> </table>							Inter	Intra	Average trip leased drivers/month: 0	< 100 Miles:			Total Drivers: 1	>= 100 Miles:	1		CDL Drivers: 1				
	Inter	Intra	Average trip leased drivers/month: 0																		
< 100 Miles:			Total Drivers: 1																		
>= 100 Miles:	1		CDL Drivers: 1																		



	SUPERIOR EROSION CONTROL INC U.S. DOT # 1983722	Review Date: 11/15/2018
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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: Jay Unruh

Title: President

Name: 

Title: Vice President



	SUPERIOR EROSION CONTROL INC U.S. DOT #. 1983722	Review Date 11/15/2018
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Part B Violations

1 FEDERAL	Primary: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 0
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Description

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

Example

On 08/29/2018 Superior Erosion Control Inc. had driver Marshall Holdeman (KS CDL# [REDACTED]) operate a commercial motor vehicle combination (2015 Ford F450 VIN# [REDACTED] - 2015 PJ Trailer VIN# [REDACTED]) in intrastate commerce. The gross vehicle weight rating of these vehicles is 14,000 lbs. and 25,000 lbs. respectively. Driver Marshall Holdeman operated this CDL required combination of vehicles from Moundridge Kansas to Wichita Kansas. This trip is evidenced by a driver record of duty status and fuel purchase data. At the time of this trip, carrier failed to ensure that driver supervisors had the required reasonable suspicion training.

2 FEDERAL	Primary: 391.25(c)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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Description

Failing to maintain a copy of the motor vehicle record or response from each State agency in the driver qualification file.

Example

On 08/29/2018 Superior Erosion Control Inc. had driver Marshall Holdeman (KS CDL# [REDACTED]) operate a commercial motor vehicle combination (2015 Ford F450 VIN# [REDACTED] - 2015 PJ Trailer VIN# [REDACTED]) in intrastate commerce. The gross vehicle weight rating of these vehicles is 14,000 lbs. and 25,000 lbs. respectively. Driver Marshall Holdeman operated this CDL required combination of vehicles from Moundridge Kansas to Wichita Kansas. This trip is evidenced by a driver record of duty status and fuel purchase data. At the time of this trip, carrier failed to maintain a copy of the motor vehicle record or response from each State agency in the driver qualification file.

3 FEDERAL	Primary: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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Description

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

Example

On 08/29/2018 Superior Erosion Control Inc. had driver Marshall Holdeman (KS CDL# [REDACTED]) operate a commercial motor vehicle combination (2015 Ford F450 VIN# [REDACTED] - 2015 PJ Trailer VIN# [REDACTED]) in intrastate commerce. The gross vehicle weight rating of these vehicles is 14,000 lbs. and 25,000 lbs. respectively. Driver Marshall Holdeman operated this CDL required combination of vehicles from Moundridge Kansas to Wichita Kansas. This trip is evidenced by a driver record of duty status and fuel purchase data. At the time of this trip, carrier failed to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

4 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 1
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Description

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

Example

On 08/29/2018 Superior Erosion Control Inc. had driver Marshall Holdeman (KS CDL# [REDACTED]) operate a commercial motor vehicle combination (2015 Ford F450 VIN# [REDACTED] - 2015 PJ Trailer VIN# [REDACTED]) in intrastate commerce. The gross vehicle weight rating of these vehicles is 14,000 lbs. and 25,000 lbs. respectively. Driver Marshall Holdeman operated this CDL required combination of vehicles from Moundridge Kansas to Wichita Kansas. This trip is evidenced by a driver record of duty status and fuel purchase data. At the time of this trip, carrier failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.



	SUPERIOR EROSION CONTROL INC	Review Date:
	U.S. DOT #: 1983722	11/15/2018

Part B Violations

5 STATE	Primary: 392.2 Secondary KSA 66-1,112g	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 0
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Description
Operating a motor vehicle requiring State operating authority (private) without the required operating authority.

Example
On 08/29/2018 Superior Erosion Control Inc. had driver Marshall Holdeman (KS CDL# [REDACTED]) operate a commercial motor vehicle combination (2015 Ford F450 VIN# [REDACTED] - 2015 PJ Trailer VIN# [REDACTED]) in intrastate commerce. The gross vehicle weight rating of these vehicles is 14,000 lbs. and 25,000 lbs. respectively. Driver Marshall Holdeman operated this CDL required combination of vehicles from Moundridge Kansas to Wichita Kansas. This trip is evidenced by a driver record of duty status and fuel purchase data. At the time of this trip, carrier failed to acquire the appropriate State private operating authority.


Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	30,323	Number of Vehicle Inspected (CR): 0	
Recordable Accidents	0	OOS Vehicle (MCMIS): 0	
		Number of Vehicles Inspected (MCMIS): 0	

Your proposed safety rating is :

This Review is not Rated.

If this was a focused investigation, which will be noted in the Review Type on the first page of this report (Part A), some factors shown above may be marked "SATISFACTORY" even if they were not reviewed.

A focused investigation does not include review of all regulatory parts and factors as set forth in 49 C.F.R. Part 385, Appendix B's safety rating methodology and cannot therefore result in a SATISFACTORY safety rating. It may, however, result in a less than SATISFACTORY rating if sufficient violations are discovered in the parts and factors examined to result in a CONDITIONAL or UNSATISFACTORY rating.

	SUPERIOR EROSION CONTROL INC U.S. DOT # 1983722	Review Date: 11/15/2018
Safety Management Process Breakdowns and Remedies		

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 could result in a Notice of Claim

- PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. 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 Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

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.



	SUPERIOR EROSION CONTROL INC U.S. DOT #: 1983722	Review Date. 11/15/2018
Safety Management Process Breakdowns and Remedies		

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

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

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

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

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

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

DESCRIPTION OF PROCESS BREAKDOWN.


Superior Erosion Control Inc.'s violations occurred due to a breakdown regarding the policies and procedures elements of compliance within this section. While carrier has an overarching controlled substances/ alcohol testing program, there was a failure to have supervisors complete the mandatory reasonable suspicion training. Establish the company policy and adhere to the procedures laid forth in the FMCSA's (Federal Motor Carrier Safety Administration) regulations. Partner with a consortium of your choosing and follow the steps outlined during the review to guide you in this process.

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.



	SUPERIOR EROSION CONTROL INC	Review Date
	U.S. DOT #: 1983722	11/15/2018
Safety Management Process Breakdowns and Remedies		

- 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.

4. DRIVER FITNESS BASIC PROCESS BREAKDOWN Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN:

Superior Erosion Control Inc.'s violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established organized driver qualification files for each CMV driver. That said, you need to develop a better methodology for ensuring that all drivers have the requisite paperwork in their individual files. It is incumbent upon the carrier to execute all annual requirements for their commercial motor vehicle drivers (MVR, driver listing of violations, and carrier driver certification). These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures.
- Ensure that operations managers and dispatchers are responsible for having the proper amount of fit drivers by considering short-term changes, for example, with regard to vacations, variations in sales, and additional driver duties, and long-term changes, for example, with regard to permanent reassignment and termination of employees.
- Ensure that dispatchers and operation managers are responsible for ascertaining that drivers are qualified before authorizing runs.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and company policies and procedures.

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.

5. Obtain "Private Carrier Authority" from the Kansas Corporation Commission if you plan to exceed the 25 mile radius.



ATTACHMENT “B”

Wade Patterson

From: Jay Unruh [REDACTED]
Sent: Friday, November 9, 2018 3:43 PM
To: Wade Patterson
Subject: Re: Fwd.
Attachments: image001.jpg

This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

Wade,

This is a trip For Marshall Dated August 29th 2018
Truck 02 Ford F450 GVWR 14000 Pulling a 04 Pj Trailer GVWR 25000 to Wichita Ks Rocky Ford Job.
Attached is his time log for that day and the credit card fuel line item. See August 29th Fuel Up Park City Ks
08/29/2018 Wed 07:00 AM 04:45 PM 09.75 Rocky Ford Project Rock rd Wichita

08/22	& PROPANE CENTRAL 7858232287 KS	81.00
08/22	& MOUNDRIDGE LUMBER COMPANY MOUNDRIDGE KS	16.55
08/21	& CASEYS GEN STORE2968 HESSTON KS	13.88
08/29	& PHILLIPS 66 - CIRCLE K 27 PARK CITY KS	65.00
08/31	& FREDDYS FRZN CUST WICH KS WICHITA KS	25.98
09/02	& JUMP START #2 HALSTEAD KS	75.00
09/04	& PHILLIPS 66 - CIRCLE K 27 PARK CITY KS	65.00
09/06	& MCPHERSON 24 773010125 MCPHERSON KS	81.41
09/07	& ORSCHELN NEWTON 43 NEWTON KS	20.05
09/07	& CASEYS GEN STORE3448 MOUNDRIDGE KS	83.00
09/08	& QT 359 03003597 WICHITA KS	60.00
	MARSHALL HOLDENAN	
	TRANSACTIONS THIS CYCLE (CARD 0885) \$646.85	

CERTIFICATE OF SERVICE

19-TRAM-222-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 12/19/2018.

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JAY UNRUH, PRESIDENT
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jay@superiorerosion.com

/S/ DeeAnn Shupe

DeeAnn Shupe