

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20171010160100
Kansas Corporation Commission

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

October 10, 2017

18-TRAM-150-PEN

James Diggs, Managing Member
Diggs Transport LLC
8646 NW 66th
Silver Lake, Kansas 66539

Certified Mail Receipt No. 70161970000105743144

This is a notice of a penalty assessment against Diggs Transport LLC for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 31, 2017, by Kansas Corporation Commission Special Investigator Jared Smith. 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:

Diggs Transport has been assessed a \$350 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 \$350 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.

DIGGS TRANSPORT 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) originally assessed motor carriers. 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 for Order Amending Penalty Assessment, along with the Reduced Penalty Agreement will be filed with the Commission. An Order Amending Penalty Assessment 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 \$175 would be due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

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. Diggs Transport LLC 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 \$350 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 Diggs Transport submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$175 and that payment will become due within thirty (30) days from the date of service of that Order.

Respectfully,



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

1500 SW Arrowhead Road
Topeka, KS 66604-4027



Phone: 785-271-3100
Fax: 785-271-3354
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Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
Jay Scott Emler, Commissioner

Sam Brownback, Governor

REDUCED PENALTY AGREEMENT

18-TRAM-150-PEN

Diggs Transport LLC (Diggs Transport) hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated October 10, 2017. Diggs Transport has agreed to comply with the following terms and obligations:

1. Diggs Transport has submitted, within fifteen (15) days from the date of the Penalty Order issued on October 10, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Diggs Transport will, within 30 days from the date of the Penalty Order dated October 10, 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. Diggs Transport will, within thirty (30) days from the date of the Penalty Order dated October 10, 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. Diggs Transport 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.

Diggs Transport LLC understands that if approved, Transportation Litigation Counsel will file a Motion for Order Amending Penalty Assessment with this Agreement attached. The Order Amending Penalty Assessment will assess Diggs Transport a fifty-percent (50%) reduced penalty of \$175, and set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Diggs Transport will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this _____ day of _____, 2017.

Diggs Transport LLC

James Diggs
Managing Member

(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 **Diggs**)
Transport LLC, of Silver Lake, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-150-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. Diggs Transport LLC (Diggs Transport) has common operating authority with the Commission and further operates under USDOT number 2843086.

5. Rebecca McClane attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 9, 2017, on behalf of Diggs Transport.

6. Diggs Transport is a common motor carrier which primarily hauls general freight.

7. Diggs Transport 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 August 31, 2017, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of Diggs Transport. 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 identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On March 29, 2017, Diggs Transport required or permitted its driver, James Diggs, to operate a CLD-required commercial motor vehicle, a 2007 Freightliner, VIN ending in 29378, GVWR 52,000 lbs., pulling a 2002 Transcraft trailer, VIN ending in 3737601, GVWR 80,000 lbs., in interstate commerce from Fort Worth, Texas to Silver Lake, Kansas. This

trip is evidenced by Driver/Vehicle Examination Report No. TX4UX90MRYZK, dated March 29, 2017, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Diggs Transport failed to maintain in the driver’s qualification file the responses of each state agency to the annual driver record inquiry. The carrier’s failure to maintain a copy of the motor vehicle record received from each State in the driver qualification file is a violation of 49 C.F.R. 391.51(b)(4), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, Diggs Transport failed to have its driver take a 30 minute break after driving more than eight (8) hours. The special investigator found four (4) violations of this type. The carrier’s failure to provide “rest breaks” to its drivers if more than eight (8) hours have passed since the end of the driver’s last off-duty or sleeper-berth period of at least 30 minutes is a violation of 49 C.F.R. 395.3(a)(3)(ii), adopted by K.A.R. 82-4-3, and implemented by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Diggs Transport committed two (2) 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 \$350 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Diggs Transport LLC 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 Diggs Transport LLC 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 Diggs Transport 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 Diggs Transport 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 Diggs Transport because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$350 should be assessed to Diggs Transport for committing two (2) 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 Diggs Transport 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. Diggs Transport LLC, of Silver Lake, Kansas is hereby assessed a penalty of \$350 for two (2) 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 \$350 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. Diggs Transport 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. Diggs Transport 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. Diggs Transport 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 Diggs Transport does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$350 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 Diggs Transport'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 Diggs Transport's right to a hearing.

G. On October 10, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105743144. 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: OCT 10 2017



Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

OCT 11 2017

ATTACHMENT “A”

	US DOT # 2843086	Legal: DIGGS TRANSPORT LLC Operating (DBA):	
MC/MX #: 952592		State #: [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:			
Operation Types		Business: Corporation	
Interstate	Intrastate		
Carrier: Non-HM	N/A		
Shipper: N/A	N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2016	
Cargo Tank:	N/A		
Company Physical Address:			
[REDACTED]			
Contact Name: James Diggs			
Phone numbers: (1) [REDACTED]			
E-Mail Address: [REDACTED]			
Company Mailing Address:			
8646 NW 66TH SILVER LAKE, KS 66539-9555			
Carrier Classification			
Authorized for Hire			
Cargo Classification			
General Freight			
Equipment			
	Owned	Term Leased	Trip Leased
Truck	1	0	0
Trailer	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	Average trip leased drivers/month: 0
< 100 Miles:			Total Drivers: 1
>= 100 Miles:	1		CDL Drivers: 1





DIGGS TRANSPORT LLC

U S DOT #. 2843086

State #

Review Date

09/07/2017

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Kansas Corporation Commission at

1500 SW Arrowhead Road
Topeka, KS 66604
Phone 913-755-1289

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: James Diggs

Title: Owner

Name:



	DIGGS TRANSPORT LLC	State #. XXXXXXXXXX	Review Date
	U.S DOT # 2843086		09/07/2017

Part B Violations

1 FEDERAL CRITICAL	Primary 395 3(a)(3)(ii)	Discovered 4	Checked 30	Drivers/Vehicles In Violation 1 Checked 1
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Description

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after more than 8 hours have passed since the end of the driver's last off duty or sleeper berth period of at least 30 minutes

Example

On 3/29/17 Diggs Transport LLC had driver XXXXXXXXXX operate a 2000 Freightliner (Unit # 1-VIN # XXXXXXXXXX 29378) in combination with a 2002 Transcraft trailer (Unit # 2- VIN # XXXXXXXXXX 3737601) in interstate commerce. These vehicles have a gross vehicle weight rating of 52,000 lbs and 80,000 lbs respectfully. Driver XXXXXXXXXX operated in commerce on an interstate trip from Fort Worth, Texas to Silver Lake, Kansas. This trip is evidenced by a driver record of duty status, fuel receipt and a level II roadside inspection performed by the Texas Department of Commercial Motor Vehicle Enforcement. At the time of this trip carrier failed to require or permit a property-carrying commercial motor vehicle driver to drive after more than 8 hours have passed since the end of the driver's last off duty or sleeper berth period of at least 30 minutes.

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

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391 25(a).

Example

On 3/29/17 Diggs Transport LLC had driver XXXXXXXXXX operate a 2000 Freightliner (Unit # 1-VIN # XXXXXXXXXX 29378) in combination with a 2002 Transcraft trailer (Unit # 2- VIN # XXXXXXXXXX 3737601) in interstate commerce. These vehicles have a gross vehicle weight rating of 52,000 lbs. and 80,000 lbs respectfully. Driver XXXXXXXXXX operated in commerce on an interstate trip from Fort Worth, Texas to Silver Lake, Kansas. This trip is evidenced by a driver record of duty status, fuel receipt and a level II roadside inspection performed by the Texas Department of Commercial Motor Vehicle Enforcement. At the time of this trip the carrier failed to maintain the responses of each State agency to the annual driver record inquiry required by 391 25(a).

3 FEDERAL	Primary 391 51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1 Checked 1
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Description

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391 25(c)(2).

Example

On 3/29/17 Diggs Transport LLC had driver XXXXXXXXXX operate a 2000 Freightliner (Unit # 1-VIN # XXXXXXXXXX 29378) in combination with a 2002 Transcraft trailer (Unit # 2- VIN # XXXXXXXXXX 3737601) in interstate commerce. These vehicles have a gross vehicle weight rating of 52,000 lbs. and 80,000 lbs respectfully. Driver XXXXXXXXXX operated in commerce on an interstate trip from Fort Worth, Texas to Silver Lake, Kansas. This trip is evidenced by a driver record of duty status, fuel receipt and a level II roadside inspection performed by the Texas Department of Commercial Motor Vehicle Enforcement. 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).



	DIGGS TRANSPORT LLC	State # [REDACTED]	Review Date
	U S DOT # 2843086		09/07/2017

Part B Violations

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

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. On 3/29/17 Diggs Transport LLC had driver [REDACTED] operate a 2000 Freightliner (Unit # 1-VIN # [REDACTED] 29378) in combination with a 2002 Transcraft trailer (Unit # 2- VIN # [REDACTED] 3737601) in interstate commerce. These vehicles have a gross vehicle weight rating of 52,000 lbs and 80,000 lbs, respectfully. Driver [REDACTED] operated in commerce on an interstate trip from Fort Worth, Texas to Silver Lake, Kansas. This trip is evidenced by a driver record of duty status, fuel receipt and a level II roadside inspection performed by the Texas Department of Commercial Motor Vehicle Enforcement. 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

Safety Fitness Rating Information:

Total Miles Operated 119,153
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 0
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

CONDITIONAL

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	U	0	2
Factor 4:	S	0	0
Factor 5:	N	0	0
Factor 6:	S	-	-

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D C

However, if this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.

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 will not result in a SATISFACTORY safety rating because all standards and factors specified in 40 CFR 383.5 and 385.7 were not examined in full, even though it may appear that they were under the rating factors in Part B of this document. 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, or a non-ratable review.

If you receive a conditional or unsatisfactory rating, you may request an administrative review under 49 CFR 385.15 or a safety rating upgrade based on corrective action under 49 CFR 385.17. However, a successful request may only result in a non-ratable status, upgrade to a conditional safety rating, or reinstatement of your most recent safety rating. You will not receive a new satisfactory safety rating as a result of your request(s) under 49 CFR 385.15 and/or 49 CFR 385.17.





DIGGS TRANSPORT LLC
U S DOT # 2843086

State # [REDACTED]

Review Date
09/07/2017

Part B Violations





DIGGS TRANSPORT LLC

U.S. DOT #. 2843086

State #

Review Date

09/07/2017

Part B Requirements and/or Recommendations

1. For all Investigations

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

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

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

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

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

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

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases, (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels, and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.

For all Investigations that could result in a Notice of Claim

- PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty





DIGGS TRANSPORT LLC

U.S. DOT #: 2843086

State #

Review Date

09/07/2017

Part B Requirements and/or Recommendations

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.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations resulting in serious violations

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office.

US Department of Transportation
Federal Motor Carrier Safety Administration
Kansas Division
Jeff Ellett - Division Administrator
1303 First American Place, Suite 200
Topeka, KS 66604-4040

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to

US Department of Transportation
Kansas Division
Jeff Ellett - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

For all Investigations resulting in a proposed conditional or unsatisfactory rating
385 15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385 15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

US Department of Transportation
Jack Van Steenburg - Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385 17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385 17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the





DIGGS TRANSPORT LLC

U S DOT # 2843086

State #

Review Date:

09/07/2017

Part B Requirements and/or Recommendations

corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation
Max Strathman - Midwestern Field Administrator
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300-A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to

US Department of Transportation
Kansas Division
Jeff Ellett - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

This letter should be submitted as soon as possible

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. 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.





DIGGS TRANSPORT LLC

U S DOT # 2843086

State #.

Review Date

09/07/2017

Part B Requirements and/or Recommendations

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN Diggs Transport LLC violations occurred due to a breakdown regarding the monitoring and tracking elements within this section. Carrier has established a organized driver qualification file. That said, you need to develop a better methodology for ensuring that all drivers have the requisite paperwork in their driver files. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents provided to you during this review to assist you in correcting the deficiencies.

BASIC SPECIFIC RECOMMENDED REMEDIES Ensure that you run a copy of your MVR once each year. This documentation should be kept in your DQ file, additionally keep copies of the certificate and review of the driving record (page 18 of KCC's Red Book.) If you have any questions, don't hesitate to contact me.

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

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

HAZMAT Carriers Only

- Ensure that HAZMAT assignments are allocated according to qualification requirements.

Passenger Carrier Only

- Monitor all drivers who are used on an intermittent basis to ensure that they are medically qualified and have the proper license class and endorsement ("P" or "S").
- Monitor and track driver-fitness-related 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.





DIGGS TRANSPORT LLC

U S. DOT # 2843086

State #.

Review Date

09/07/2017

Part B Requirements and/or Recommendations

4. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN. Diggs Transport LLC's violation occurred due to a breakdown regarding the monitoring and tracking elements within this section. Carrier has established the correct methods of recording hours of service records for the driver. That said, you need to develop a better methodology for ensuring that drivers record complete and accurate records of duty status. It is incumbent upon the carrier to review drivers records of duty status reports and verify that they are correct and accurate. Monitor the time records continually in order to track driver movements. Finally verify the accuracy of their reports with supporting documents. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance.

BASIC SPECIFIC RECOMMENDED REMEDIES: Make sure that the you are not permitting or requiring a driver to driver if more than 8 hours have passed since the end of the driver's last off-duty or sleeper birth period of at least 30 minutes. Additionally make sure that when you driver logs his 30 minute break he is doing so on the Off-duty not driving or sleeper birth section of his log. If you have any questions or concerns, please don't hesitate to contact me.

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

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.
- Document all findings of fatigue-related noncompliance with regulations and/or company policies.
- Systematically check to see if drivers and dispatchers are regularly communicating about Hours-of-Service (HOS) availability and driver-fatigue level.
- Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
- Regularly evaluate the company's fatigue-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.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring drivers' Records of Duty Status (RODS) for accuracy, for whether they are applying performance standards fairly, consistently, and equitably, and for whether they are documenting evaluations.
- Consider using Electronic On-board Recorders (EOBRs) to monitor and track Hours-of-Service (HOS) violations.
- When monitoring and tracking any fatigue-related issues, always assess whether an issue is individual or represents a systemic breakdown in the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.)

Passenger Carrier Only

- Monitor and track driver-fatigue-related passenger complaints and assess safety implications.
- Ensure that management ascertains that available hours account for rest periods, separate operations within-company, intermittent and relief drivers, and changes to itinerary that require "extended day." Check in with drivers at pre-designated intervals.

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.





DIGGS TRANSPORT LLC
U S DOT # 2843086

State #

Review Date
09/07/2017

Part B Requirements and/or Recommendations

5. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Diggs Transport LLC's operating authority and/or the impoundment of Diggs Transport LLC commercial motor vehicles.

Carrier Representative

Date





DIGGS TRANSPORT LLC

U.S. DOT #: 2843086

State #: [REDACTED]

Review Date:

08/31/2017

Part B Requirements and/or Recommendations

including those related to discipline and incentives.

- Provide training/testing program to current drivers on proper log completion, how to achieve proper rest on trips by instructing them on the difference between on-duty not driving, for example a driver waits while trailer is loaded, and off-duty, and the importance of proper rest between shifts.
- Train drivers on the proper use of sleeper berths, including the correct procedure for entering time spent in a berth as a co-driver on the driver's Record of Duty Status (RODS).
- Ensure that drivers are trained in driver Out-of-Service (OOS) rules, their responsibilities in adhering to those rules, and the carrier's procedures for reporting OOS violations and communicating appropriately with other personnel.
- Provide hiring officials with guidance on how best to attract, screen, and qualify applicants who are most likely to adhere to Hours-of-Service (HOS) regulations and company policies and procedures.
- Reinforce training about Hours-of-Service (HOS) policies, procedures, and responsibilities to drivers, dispatchers, and other employees, using job aids, post-training testing, and/or refresher training. Encourage informal feedback among them so that they can help each other to improve.

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. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Diggs Transport LLC's operating authority and/or the impoundment of Diggs Transport LLC commercial motor vehicles.

Maria Bosch
Carrier Representative

8-31-17
Date



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

TXDPS COMMERCIAL VEHICLE ENFORCEMENT

Report Number: TX4UX90MRYZK
 Inspection Date: 03/29/2017
 Start: 9 21 AM CT End: 10.07 AM CT
 Inspection Level: II - Walk-Around
 HM Inspection Type: None

DIGGS TRANSPORT LLC

Driver: DIGGS, JAMES E

SILVER LAKE, KS, 66539-9555

License#:

State: KS

USDOT: 2843086

Phone#:

Date of Bi

MC/MX#: 952592

Fax#:

CoDriver:

State#: 0919234

License#:

State:

Date of Birth:

Location: IH-0020 IN PARKER CO. (391-423

Milepost: 406

Shipper: N/A

Highway: IH-0020

Origin: FT WORTH TX

Bill of Lading: N/A

County:

Destination: BENBROOK TX

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	FRHT	KS		002		29378 52000				
2	ST	TRAO	2012	KS			3737601 80000				

BRAKE ADJUSTMENTS No brake measurements required for level II or level III

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393 95A	F	1	N		N	N	FIRE EXTINGUISHER VIOLATION (FMCSR 393 95(a))
393 9T	F	1	N		N	N	INOPERABLE/OBSCURED TAIL LAMP(S) (FMCSR 393.9)
393 9	F	1	N		N	N	INOPERABLE/OBSCURED STOP LAMP(S) (#) (FMCSR 393 9)
393 9TS	F	1	N		N	N	INOPERABLE/OBSCURED TURN SIGNAL LAMP(S) (FMCSR 393 9)
393 45D	F	2	N		N	N	BRAKE CONNECTIONS WITH LEAKS / CONSTRICTIONS (FMCSR 393 45(d))
393 11	F	2	N		N	N	NO/IMPROPER SIDE MARKER LAMP (FMCSR 393 11)

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks: No data for special checks

Notes: ALL VIOLATIONS MUST BE REPAIRED PRIOR TO NEXT DISPATCH

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000

Signature Of Motor Carrier X _____ Title _____ Date _____

Carrier Verify Text

Signature Of Motor Carrier X _____ Title _____ Date _____

Report Prepared By: A Christmas
 Badge #: 10814

Copy Received By: JAMES DIGGS

X

X



CERTIFICATE OF SERVICE

18-TRAM-150-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 OCT 10 2017.

JAMES DIGGS, MANAGING MEMBER
DIGGS TRANSPORT LLC
8646 NW 66TH
SILVER LAKE, KS 66539-9555
Fax: 785-582-4622
diggstransport@gmail.com

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

OCT 11 2017