

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

Dwight D. Keen, Chair  
Shari Feist Albrecht, Commissioner  
Susan K. Duffy, Commissioner

Laura Kelly, Governor

**NOTICE OF PENALTY ASSESSMENT**  
**20-TRAM-047-PEN**

August 8, 2019

Manuel Hernandez, Owner  
d/b/a M. Hernandez Trucking  
6040 E. Waterhole Drive  
Garden City, KS 67846

This is a notice of a penalty assessment against Manuel Hernandez, d/b/a M. Hernandez Trucking (M. Hernandez Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 17, 2019, by Kansas Corporation Commission Special Investigator Penny Fryback. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

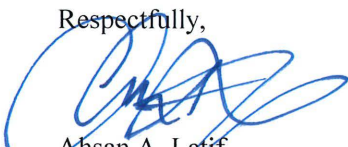
**IF YOU ACCEPT THE PENALTY:** M. Hernandez Trucking has been assessed a \$1,400 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,400, through your personal account with the Kansas Corporation Commission's KTRAN system located 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 M. Hernandez Trucking 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](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. M. Hernandez Trucking 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 Executive Director 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. 2018 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$1,400 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,



Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118

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

Before Commissioners:      Dwight D. Keen, Chair  
                                     Shari Feist Albrecht  
                                     Susan K. Duffy

In the Matter of the Investigation of **Manuel**      )  
**Hernandez, d/b/a M. Hernandez Trucking, of**      )  
**Garden City, KS,** Regarding the Violation of      )  
the Motor Carrier Safety Statutes, Rules and      ) Docket No. 20-TRAM-047-PEN  
Regulations and the 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.A.R. 82-4-1b, 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.A.R. 82-4-1, 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. 2018 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. Manuel Hernandez, d/b/a M. Hernandez Trucking (M. Hernandez Trucking) operates under USDOT number 1278129.

5. Manuel Hernandez attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on February 13, 2017, on behalf of M. Hernandez Trucking.

6. M. Hernandez Trucking is a common motor carrier which primarily hauls road materials.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on July 17, 2019, Commission Staff (Staff) Special Investigator Penny Fryback conducted a safety compliance review of the operations of M. Hernandez Trucking. 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 four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 3, 2019, M. Hernandez Trucking required or permitted its driver, Manuel Hernandez to operate a CDL-required commercial motor vehicle,

a 2004 Kenworth, VIN ending in 59218, GVWR 50,000 lbs., pulling a 2009 Travis semi-trailer, VIN ending in 06637, in interstate commerce from Garden City, Kansas to Alva, Oklahoma. This trip is evidenced by Driver's Daily Log, dated June 3, 2019, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, M. Hernandez Trucking did not have implemented an alcohol and controlled substance testing program for its CDL driver. The carrier's failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a, above, M. Hernandez Trucking had not paid its Uniform Carrier Registration (UCR) fees for 2019. The carrier's failure to annually register its commercial motor vehicle(s) operating in interstate commerce and to pay the appropriate Unified Carrier Registration (UCR) fees as set out in 49 C.F.R. 367.30, is a violation of K.A.R. 82-4-30a, authorized by K.S.A. 66-1,139a and K.S.A. 66-1,129. Staff recommends a fine of \$300.
- c. On June 21, 2019, M. Hernandez Trucking required or permitted its driver, Manuel Hernandez, to operate a 2004 Kenworth, VIN ending in 059218, GVWR 50,000 lbs., pulling a 2009 Travis semi-trailer, VIN ending in 06637, in interstate commerce from Alva, Oklahoma to Garden City,

Kansas. This trip is evidenced by Driver's Daily Log, dated June 21, 2019, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. M. Hernandez Trucking failed to obtain an International Fuel Tax Agreement (IFTA) permit or a fuel tax permit for Kansas upon its return to Kansas. The carrier's failure to obtain an IFTA permit or a fuel tax permit for Kansas is a violation of 49 C.F.R. 392.2, as authorized by K.S.A. 79-34,109. Staff recommends a fine of \$500.

- d. On June 24, 2019, M. Hernandez Trucking required or permitted its driver, Manuel Hernandez, to operate a CDL-required commercial motor vehicle, a 2004 Kenworth, VIN ending in 059218, GVWR 50,000 lbs., pulling a 2009 Travis semi-trailer, VIN ending in 06637, in intrastate commerce from Garden City, Kansas to Osbourne, Kansas. This trip is evidenced by Driver's Daily Log, dated June 24, 2019, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, driver Manuel Hernandez came on duty at 6:00 a.m. and drove until 6:30 p.m. without taking a 30 minute break. 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. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

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

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

9. Additionally, Staff recommends a civil penalty of \$1,400 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from M. Hernandez Trucking 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that M. Hernandez Trucking 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 M. Hernandez Trucking because it is a motor carrier as defined in K.A.R. 82-4-1.

13. The Commission finds M. Hernandez Trucking committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor

Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

**THE COMMISSION THEREFORE ORDERS THAT:**

A. Manuel Hernandez, d/b/a M. Hernandez Trucking, of Garden City, KS is hereby assessed a \$1,400 civil penalty for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. M. Hernandez Trucking 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. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order.

D. M. Hernandez Trucking 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.

E. Pursuant to K.S.A. 2018 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 Executive Director 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 M. Hernandez Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,400 civil penalty against M. Hernandez Trucking, and ordering a representative from M. Hernandez Trucking 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.

F. 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. 2018 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$1,400 is due in thirty (30) days from the date of service of this Order. Payment of \$1,400 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.

H. Failure to pay the \$1,400 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of M. Hernandez Trucking's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease



and desist orders, and any other remedies available to the Commission by law, without further notice.

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

**BY THE COMMISSION IT IS SO ORDERED.**

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 08/08/2019



\_\_\_\_\_  
Lynn M. Retz  
Executive Director

AAL

## **ATTACHMENT “A”**



US DOT #  
1278129

Legal: MANUEL HERNANDEZ  
Operating (DBA): M HERNANDEZ TRUCKING

MC/MX #: 000000

Federal Tax ID: [REDACTED] (SSN)

Review Type: Compliance Review (CR)

Scope: Principal Office

Location of Review/Audit: Company facility in the U. S.

Territory:

Operation Types: Interstate Intrastate

Carrier: Non-HM Non-HM

Shipper: N/A N/A

Cargo Tank: N/A

Business: Individual

Gross Revenue: [REDACTED] for year ending: 12/31/2019

**Company Physical Address:**

6040 E WATERHOLE DR  
GARDEN CITY, KS 67846

Contact Name: Mireya Montoya

Phone numbers: (1) [REDACTED]

Fax

E-Mail Address: [REDACTED]

**Company Mailing Address:**

6040 E WATERHOLE DR  
GARDEN CITY, KS 67846

**Carrier Classification**

Authorized for Hire

**Cargo Classification**

Other: Road Materials

**Equipment**

	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Truck Tractor	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
< 100 Miles:		
>= 100 Miles:	1	

Average trip leased drivers/month: 0

Total Drivers: 1

CDL Drivers: 1





**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
**U.S. DOT #: 1278129**

Review Date:  
07/17/2019

### Part A

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

**Kansas Corporation Commission Attention Gary Davenport  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027**

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

**Person(s) Interviewed**

**Name:** Mireya Montoya

**Title: Assistant**

**Name:** Manuel Hernandez

**Title:** Owner





**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
U.S. DOT #: 1278129

Review Date:  
07/17/2019

### Part B Violations

<b>1</b> <b>FEDERAL</b> <b>ACUTE</b>	Primary: 382.115(a)	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>Checked</b> 1 1
<b>Description</b> Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  This carrier did not have a controlled substance and alcohol testing program in place prior to operating on June 3, 2019				
<b>2</b> <b>STATE</b>	Primary: 367.40	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>Checked</b> 1 1
<b>Description</b> Fail to pay current years UCR and operating in interstate commerce. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  This carrier went from Garden City, Kansas to Avard, Oklahoma on June 3, 2019. Manuel Hernandez d/b/a M Hernandez Trucking did not pay UCR fees for 2019.				
<b>3</b> <b>FEDERAL</b>	Primary: 387.7(d)	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>Checked</b> 1 1
<b>Description</b> Failing to maintain at principal place of business required proof of financial responsibility. <b>Example</b> Unit 20 Trip Date: 6/3/2019  The carrier did not produce a MCS-90 insurance form but produced a document showing that the carrier had \$1,000,000 in financial liability.				
<b>4</b> <b>FEDERAL</b>	Primary: 390.15(b)	<b>Discovered</b> 1	<b>Checked</b> 1	<b>Drivers/Vehicles</b> <b>In Violation</b> <b>Checked</b> 1 1
<b>Description</b> Failing to maintain, for a period of three years after an accident occurs, an accident register. <b>Example</b> Diver Manuel Hernandez Accident Date: December 6, 2018  Manuel Hernandez d/b/a M Hernandez Trucking did not have an accident register and did not have copies of the accident report. Carrier did produce an insurance loss form for this accident.				





**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
U.S. DOT #: 1278129

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07/17/2019

### Part B Violations

5 FEDERAL	Primary: 391.21(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Using a driver who has an incomplete employment application. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  Driver Manuel Hernandez application for employment was missing traffic convictions, driving experience, accident information, employment history, the date and his signature.					
6 FEDERAL	Primary: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  The carrier had not conducted an annual review of the drivers driving record.					
7 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  Driver Manuel Hernandez had not completed a certificate of violations in the previous 12 months showing all traffic conviction received in the previous 12 months.					
8 STATE	Primary: 392.2 CFR Equivalent: 392.2	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated. Failure to obtain IFTA fuel permit. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/21/2019  On June 21, 2019 Driver Manuel Hernandez drove from Avard, Oklahoma back to Garden City, Kansas and did not obtain a fuel permit or an IFTA permit.					





**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
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### Part B Violations

9 FEDERAL	Primary: 392.9a(a)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked
<b>Description</b> Operating beyond the scope of the operating authority granted (Property, Non-HHG) Trip Date: 6/3/2019 Commodity: Empty Origin: Garden City, KS Destination: Avar, Oklahoma  This carrier had an intrastate U.S. DOT number and the carrier operated in Oklahoma on June 3, 2019				
10 STATE	Primary: 395.3(a)(3)(ii) CFR Equivalent: 395.3(a)(3)(ii)	Discovered 1	Checked 8	Drivers/Vehicles In Violation Checked 1 1
<b>Description</b> 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. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/24/2019  On June 24, 2019 Driver Manuel Hernandez came on duty at 06:00 a.m and was on duty and driving until 06:30 p.m. without a 30 minute rest break.				
11 FEDERAL	Primary: 395.3(a)(3)(ii)	Discovered 1	Checked 22	Drivers/Vehicles In Violation Checked 1 1
<b>Description</b> 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. <b>Example</b> Driver Manuel Hernandez Trip Date: 6/3/2019  On June 3, 2019 Driver Manuel Hernandez came on duty at 05:30 a.m. and was on duty and driving until 04:30 p.m. without taking a 30 minute rest break.				
12 FEDERAL	Primary: 396.9(d)(3)	Discovered 4	Checked 4	Drivers/Vehicles In Violation Checked 1 1
<b>Description</b> Failing to maintain completed inspection form for 12 months from the date of inspection at the carrier's principal place of business or where vehicle is housed. <b>Example</b> Date of Inspection: May 13, 2019 Issuing Agency: Oklahoma Highway Patrol Driver Manuel Hernandez Unit 20  Manuel Hernandez d/b/a M Hernandez Trucking failed to retain copies of the roadside inspections conducted in the previous 12 months.				





**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
U.S. DOT #: 1278129

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### Part B Violations

**Safety Fitness Rating Information:**

**Total Miles Operated** 55,600  
**Recordable Accidents** 1  
**Recordable Accidents/Million Miles** 17.99

**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 :

**SATISFACTORY**

**Rating Factors**

**Acute Critical**

<b>Factor 1:</b>	S	0	0
<b>Factor 2:</b>	C	1	0
<b>Factor 3:</b>	S	0	0
<b>Factor 4:</b>	S	0	0
<b>Factor 5:</b>	N	0	0
<b>Factor 6:</b>	S	-	-

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







**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
U.S. DOT #: 1278129

Review Date:  
07/17/2019

## Part B Requirements and/or Recommendations

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

**DESCRIPTION OF PROCESS BREAKDOWN:** This carrier needs to have a controlled substance and alcohol testing program put in place and designate someone to over see all of the drug and alcohol testing requirements.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

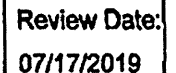
- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium, if applicable.
- Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other non qualified parties, in accordance with regulations.
- Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.
- Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing. This will ensure selection of 50 percent of drivers for controlled-substances testing and 10 percent for alcohol testing per year, given fluctuations in the driver workforce over the course of the year.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows controlled-substance and alcohol violations.

#### Seek Out Resources:

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

2. Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.
3. DOT drug testing rules require that employers test for marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
4. Provide employees with a written controlled substance and alcohol testing policy that complies with all the requirements noted in Part 382.601(b). Also, ensure you maintain a certificate signed by the employee certifying they have received your company drug and alcohol testing policy.
5. Carriers are required to post accident controlled substance and alcohol test any driver who is involved in a fatality accident or an accident where there are injuries treat away from the scene and the carriers driver receives a citation or when one or more of the vehicles has disabling damage and has to be towed and the carriers driver receives a citation.







**M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)**  
U.S. DOT #: 1278129

Review Date:  
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### Part B Requirements and/or Recommendations

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

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

•All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities.

For all investigations that could result in a Penalty Order:

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

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

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

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

e-mail: [g.davenport@kcc.ks.gov](mailto:g.davenport@kcc.ks.gov)  
FAX: 785-271-3124;  
or mail to:  
Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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 Manuel Hernandez d/b/a M Hernandez Trucking operating authority and/or the impoundment of Manuel Hernandez d/b/a M Hernandez Trucking vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: [http://kcc.ks.gov/trans/penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans/penalty_assessment_table.htm)





M HERNANDEZ TRUCKING (MANUEL HERNANDEZ dba)  
U.S. DOT #: 1278129

Review Date:  
07/17/2019

**Part B Requirements and/or Recommendations**

x Manuel Hernandez  
Signature

x 7-17-19  
Date



## **ATTACHMENT “B”**





# DRIVER'S DAILY LOG

(24 HOURS)

6 / 03 / 19  
(Month) (Day) (Year)

Original - File at home terminal  
Duplicate - Driver retains in his/her possession for eight days

**RECAP**  
Complete at  
end of workday.

414549

Total Miles Driving Today Total Mileage Today

M Hernandez Trucking

Name of Carrier or Carriers

6040 E Waterhole Dr Garden city KS

Main Office Address

6040 E Waterhole Dr Garden city KS

Home Terminal Address

On date hours  
today (Total  
lines 3 & 4)

**70 Hour /  
8 Day  
Drivers**

#20

T-90

Truck/Tractor and Trailer Numbers or  
License Plate(s) / State (show each unit)

I certify these entries are true and correct:

M Hernandez

Driver's Full Signature

Co-Driver's Name

A.  
Total hours on  
duty last 7 days,  
including today

B.  
Total hours  
available  
tomorrow,  
76 hr. minus A \*

C.  
Total hours on  
duty last 6 days,  
including today

**60 Hour /  
7 Day  
Drivers**

A.  
Total hours on  
duty last 6 days,  
including today

B.  
Total hours  
available  
tomorrow,  
60 hr. minus A \*

C.  
Total hours on  
duty last 7 days,  
including today

\*If you meet the  
34-hour restart  
requirements  
in ERS 3, you  
have 68/70  
hours available  
again

MID-NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11 TOTAL HOURS

1. OFF DUTY

2. SLEEPER  
BERTH

3. DRIVING

4. ON DUTY  
(NOT DRIVING)

13  
0  
7  
4  
24

MID-NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11

REMARKS

SHIPPING  
DOCUMENTS:

B/L or Manifest No.  
or

Shipper & Commodity

From: Garden city KS To: Alva OK

USE TIME STANDARD AT HOME TERMINAL

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## **ATTACHMENT “C”**

# DRIVER'S DAILY LOG

(24 HOURS)

418915

519

Total Miles Driving Today Total Mileage Today

#20

- 790

Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

Original - File at home terminal  
Duplicate - Driver retains in his/her possession for eight days

6 / 21 / 19  
(Month) (Day) (Year)

M Hernandez Trucking

6040 E Watson Dr

6040 E Watson Dr

Copy these entries are true and correct:  
M Hernandez

Driver's Full Signature

Co-Driver's Name

MD- NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11 TOTAL HOURS

1. OFF DUTY

2. SLEEPER BERTH

3. DRIVING

4. ON DUTY (NOT DRIVING)

MID- NIGHT

REMARKS

1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11

11.5

0

11.5

1

29

SHIPPING DOCUMENTS:

B/L or Manifest No. or

Shipper & Commodity

FROM: Alva OK

To: Garden City KS

Enter name of place you reported and where released from work and when and where each change of duty occurred.

USE TIME STANDARD AT HOME TERMINAL

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RECAP  
Complete at  
end of workday.

On-duty hours  
today (total  
less 3 hr. 4)

70 Hour/  
8 Day  
Drivers

A. Total hours on  
duty last 7 days,  
including today.

B. Total hours  
available  
minimum  
70 per month - A

C. Total hours on  
duty last 8 days,  
including today.

60 Hour/  
7 Day  
Drivers

A. Total hours on  
duty last 6 days,  
including today.

B. Total hours  
available  
minimum  
60 per month - A

C. Total hours on  
duty last 7 days,  
including today.

\*If you meet the  
requirements  
in § 645.3, you  
have 60/70  
hours available.



## **ATTACHMENT “D”**



# **DRIVER'S DAILY LOG** (24 HOURS)

419444

375

Total Miles Driving Today Total Mileage Today

#20

- 7.90

Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

6/24/19  
(Month) (Day) (Year)

Original - File at home terminal  
Duplicate - Driver retains in his/her possession for eight days

M. Hernandez Trucking

Name of Carrier or Carriers

6040 E Waterhole Dr Garden city KS

Main Office Address

6040 E Waterhole Dr Garden city KS

Home Terminal Address

I certify these entries are true and correct:

M. Hernandez

Driver's Full Signature

Co-Driver's Name

**RECAP**  
Complete at end of workday.

On-duty hours today, (Total lines 3 & 4)

70 Hour/8 Day Drivers

A. Total hours on duty last 7 days, including today.

B. Total hours available tomorrow, 70 hr. minus A.

C. Total hours on duty last 8 days, including today.

60 Hour/7 Day Drivers

A. Total hours on duty last 6 days, including today.

B. Total hours available tomorrow, 60 hr. minus A.

C. Total hours on duty last 7 days, including today.

If you meet the 34-hour restart requirements in 49CFR 395.3, you have 60/70 hours available again.

	MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS
1. OFF DUTY																									11.5
2. SLEEPER BERTH																									0
3. DRIVING																									8
4. ON DUTY (NOT DRIVING)																									4.5
	MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	24

REMARKS

SHIPPING DOCUMENTS:

B/L or Manifest No. or

Shipper & Commodity

Enter name of place you reported and where released from work and when and where each change of duty occurred.

From: Garden City KS

To: Osborne KS

USE TIME STANDARD AT HOME TERMINAL

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**CERTIFICATE OF SERVICE**

20-TRAM-047-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
first class mail/hand delivered on 08/09/2019.

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

MANUEL HERNANDEZ, OWNER  
MANUEL HERNANDEZ  
D/B/A M. HERNANDEZ TRUCKING  
6040 E WATERHOLE DRIVE  
GARDEN CITY, KS 67846  
mireya.montoya02@gmail.com

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe