

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

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

Governor Jeff Colyer, M.D.

NOTICE OF PENALTY ASSESSMENT

February 6, 2018

18-TRAM-314-PEN

Gary L. Gorrell, Owner
d/b/a Topco Distributing Co.
P O Box 1725
Salina, Kansas 67402

This is a notice of a penalty assessment against Gary L. Gorrell, d/b/a Topco Distributing Co. (Topco Distributing) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on January 16, 2018, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalty amounts are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

Topco Distributing has been assessed a \$250 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 \$250 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.

TOPCO DISTRIBUTING IS A NEW ENTRANT MOTOR CARRIER AND MAY BE 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 assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed may be available if:

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

(2) within thirty (30) days from the date of this Penalty Order, the carrier submits to Transportation Staff a 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;

(3) within thirty (30) days from the date of this 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; and

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

If a carrier is approved for a fifty-percent (50%) reduced penalty, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above may be issued by the Commission. Payment of the reduced penalty of \$125 would be due within 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. Gary L. Gorrell, d/b/a Topco Distributing Co. 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 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 Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, 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 \$250 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If Topco Distributing submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$125 and that payment would become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,


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

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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Governor Jeff Colyer, M.D.

REDUCED PENALTY AGREEMENT

18-TRAM-314-PEN

Gary L. Gorrell, d/b/a Topco Distributing Co. (Topco Distributing) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated February 6, 2018. Topco Distributing has agreed to comply with the following terms and obligations:

1. Topco Distributing has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.

2. Topco Distributing will, within thirty (30) days from the date of the Penalty Order, 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 to become eligible for the 50% reduced penalty.

3. Topco Distributing will, within thirty (30) days from the date of the Penalty Order, 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. Topco Distributing 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.

Gary L. Gorrell, d/b/a Topco Distributing Co. understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$125, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Topco Distributing will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2018.

Gary L. Gorrell, d/b/a Topco Distributing Co.

Gary L. Gorrell
Owner

(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: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Investigation of **Gary L.)
Gorrell, d/b/a Topco Distributing Co., of)
Salina, Kansas,** Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 18-TRAM-314-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.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. Gary L. Gorrell, d/b/a Topco Distributing Co. (Topco Distributing) has private and common operating authority with the Commission and further operates under USDOT number 1100716.

5. Gary L. Gorrell attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on March 2, 2016, on behalf of Topco Distributing.

6. Topco Distributing is a private and common motor carrier which primarily hauls general freight, metal, sheets, coils, rolls, motor vehicles, building materials, liquids/gases in cargo tanks, grain, feed, hay, commodities dry bulk, and farm supplies.

7. Topco Distributing is a New Entrant motor carrier and may be 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 January 16, 2018, Commission Staff (Staff) Special Investigator Gregory Askren conducted a compliance review of the operations of Topco Distributing. 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 one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On December 22, 2017, Topco Distributing required or permitted its driver, Gary L. Kinderknecht, to operate a CDL-required commercial motor vehicle, a 2010 Kenworth, VIN ending in 268689, GVWR 47,200 lbs., in

intrastate commerce in and around the area of Salina, Kansas. This trip is evidenced by Straight Bill of Lading, dated December 22, 2017, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, driver Gary I. Kinderknecht was driving after having been on duty 70 hours in eight (8) consecutive days. *See*, Mr. Kinderknecht's Driver's Time Record, a copy of which is attached hereto as Attachment "C" and is hereby incorporated by reference. The carrier's permitting its driver to drive in excess of 70 hours in a period of eight consecutive days is in violation of 49 C.F.R. 395.3(b)(2), adopted by K.A.R. 82-4-3a, and authorized 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 Topco Distributing committed one (1) 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 \$250 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Gary L. Gorrell, d/b/a Topco Distributing Co. is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of

the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends Gary L. Gorrell, d/b/a Topco Distributing Co. 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 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 a representative from Topco Distributing 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 Topco Distributing 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 Topco Distributing because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$250 should be assessed to Topco Distributing for committing one (1) 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 Topco Distributing is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Gary L. Gorrell, d/b/a Topco Distributing Co., of Salina, Kansas is hereby assessed a penalty of \$250 for one (1) 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 \$250 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 owed.

B. A representative from Topco Distributing 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 safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

C. Topco Distributing 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 above, 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. Topco Distributing 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 Topco Distributing does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$250 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 Topco Distributing'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. On February 6, 2018, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 7016197005744370. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

G. **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. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Topco Distributing's right to a hearing.

H. 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

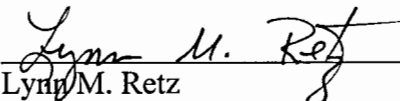
than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

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.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: FEB 06 2018




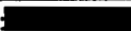




Lynn M. Retz
Secretary to the Commission


AAL

Order Mailed Date


FEB 07 2018

ATTACHMENT “A”

	US DOT # 1100716	Legal: GARY L GORRELL Operating (DBA): TOPCO DISTRIBUTING CO.	
MC/MX #:		Federal Tax ID:  (SSN)	
Review Type: Compliance Review (CR)			
Scope:	Principal Office	Location of Review/Audit: Company facility in the U. S.	Territory: E
Operation Types		Interstate	Intrastate
Carrier:	N/A	Non-HM	Business: Corporation
Shipper:	N/A	N/A	Gross Revenue:  for year ending: 12/31/2017
Cargo Tank:	N/A		
Company Physical Address:			
			
Contact Name:	Gary L. Gorrell		
Phone numbers: (1)			Fax
E-Mail Address:			
Company Mailing Address:			
PO BOX 1725 SALINA, KS 67402-1725			
Carrier Classification			
Authorized for Hire		Exempt for Hire	Private Property
Cargo Classification			
General Freight	Metal. Sheets, Coils, Rolls		Motor Vehicles
Building Materials	Liquids / Gases in Cargo Tanks		Grain, Feed, Hay
Commodities Dry Bulk	Farm Supply		
Equipment			
	Owned	Term Leased	Trip Leased
Truck	2	0	0
Power units used in the U.S.: 2			
Percentage of time used in the U.S.: 100			
Does carrier transport placardable quantities of HM? No			
Is an HM Permit required? N/A			
Driver Information			
	Inter	Intra	Average trip leased drivers/month: 0
< 100 Miles:		2	Total Drivers: 2
>= 100 Miles:		0	CDL Drivers: 2

	TOPCO DISTRIBUTING CO (GARY L GORRELL dba) U.S. DOT #: 1100716	Review Date: 01/17/2018
Part A		
QUESTIONS regarding this report or the Federal Motor Carrier Safety or Hazardous Materials rules may be addressed to the Office of Motor Carriers at.		
This report will be used to assess your safety compliance.		
Person(s) Interviewed Name: Gary Gorrell Name: Title: Owner Title:		



	TOPCO DISTRIBUTING CO (GARY L GORRELL dba)	Review Date:
	U.S. DOT #: 1100716	01/17/2018

Part B Violations

1 STATE	Primary: 395.3(b)(2) CFR Equivalent: 395.3(b)(2)	Discovered 3	Checked 60	Drivers/Vehicles In Violation 1	Checked 2
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Description

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in 8 consecutive days.

Example

Driver: [REDACTED]

DOB: [REDACTED]

Ks OL [REDACTED]

Trip Date: 12/22/2017

Trip - on an intrastate trip in Salina Ks to Tony's Pizza, operated a 2010 KW, KS Vin [REDACTED] 268689 Ks. Reg. [REDACTED] GVWR 47200 pulling a 1999 GT Dane Vin [REDACTED] 082811. Gary L. Gorrell required or permitted a property-carrying commercial motor vehicle driver to driver after having been on duty 70 hours in 8 consecutive days. Driver [REDACTED] was on duty 12-11 to 12-22, showing on duty time sheet 88 hrs. This put him in violation from 12-20 at 3 p.m. till 12-22 at 5 p.m. Gary Gorrell provided 3 bills of lading for 3 different trips [REDACTED] made to Tony's Pizza on 12/22/17.

2 STATE	Primary: 396.11(a) CFR Equivalent 396.11(a)	Discovered 3	Checked 60	Drivers/Vehicles In Violation 1	Checked 2
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Description

Failing to require driver to prepare driver vehicle inspection report.

Example

Driver: Gary L. Gorrell [REDACTED]

Trip Date 12-19-17


On an intrastate trip from Salina, Ks. to Solomon, Ks. operated a 2000 Chev Vin # [REDACTED] 1267111 Ks. Reg. [REDACTED] GVWR 12000

Gary L. Gorrell dba TOPCO Distributing Co. failed to fill out a DVIR for each day he operated a CMV. He filled out a DVIR for 2 days on the same sheet 3 times in December.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0
Total Miles Operated	8,000	Number of Vehicle Inspected (CR): 0
Recordable Accidents	0	OOS Vehicle (MCMIS): 0
		Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.

	TOPCO DISTRIBUTING CO (GARY L GORRELL dba) U.S. DOT #: 1100716	Review Date: 01/17/2018
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Part B Violations

Your proposed safety rating is :

This Review is not Rated.

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

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

	TOPCO DISTRIBUTING CO (GARY L GORRELL dba) U.S. DOT #: 1100716	Review Date: 01/17/2018
Part B Requirements and/or Recommendations		

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

2. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm
3. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
4. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.
5. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN Gary L. Gorrell dba TOPCO Distributing Co. needs to develop policy to ensure the 70hr rule is enforced.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://a1.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

6. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN, Gary L. Gorrell dba TOPCO Distributing Co. needs to track times sheets for compliance.

BASIC SPECIFIC RECOMMENDED REMEDIES





TOPCO DISTRIBUTING CO (GARY L GORRELL dba)
U.S. DOT #. 1100716

Review Date:
01/17/2018

Part B Requirements and/or Recommendations

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://a1.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.).

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://a1.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.

7. "Is Your Registration Information Current?"

FMCSA requires carriers to update their registration data via a MCS-150 form every 24 months. Please review, verify and update your contact information, Vehicle Miles Travelled (VMT) and Power Unit (PU) data to ensure that it is current and accurate, since it is used in the new Carrier Safety Measurement System. You should access the system, review all the information and press the submit button. Once you've done this, the system will record that you've reviewed the information and you will be in compliance with the biennial update requirement. https://li-public.fmcsa.dot.gov/LVIEW/PKG_REGISTRATION.prc_option

8. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me: KCC Special Investigator Greg Askren at 785-483-0212 or email at g.askren@kcc.ks.gov

9. 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 Gary L. Gorrell dba TOPCO Distributing Co. operating authority and/or the impoundment of Gary L. Gorrell dba TOPCO Distributing Co. vehicles

Signed

Gary Gorrell

Date

1-17-2018



ATTACHMENT “B”

STRAIGHT BILL OF LADING

DIAMOND TRANSFER & DIST. CO.

SALINA, KS: 67402

Carrier No. 150

Shipper No.

12-22-2017

TO: Consignee
Street
Destination Salina, KS 67401 Zip

SCAC

Date

FROM:

Shipper Diamond Transfer & Dist. Co.
Street
Origin Salina, KS 67402

Route				Vehicle Number	031-5	
No. Shipping Units	* HM	Kind of Packaging, Description of Articles, Special Marks and Exceptions	Weight (Subject to Correction)	Class Or Rate	Check Column	Charges
15		Bins, Tomato Paste 31-73-38-0654-0649-0667				
		0668-0656-0672-0674-0679-0669	42000			
		0641-0678-0675-0676-0650-0673				
		Seals 1505136				

REMIT C.O.D. TO: ADDRESS

NOTE: Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.
The agreed or declared value of the property hereby specifically stated by the shipper to be not exceeding \$ per

* This is to certify that the above-named materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation

COD Amt: \$

Subject to Section 7 of the conditions, if this shipment is to be delivered to the consignee without recourse on the consignor shall sign the following statement.
The carrier shall not make delivery of this shipment without payment of freight and all others lawful charges.

C.O.D. FEE: PREPAID COLLECT \$

TOTAL CHARGES: \$

If charges are to be prepaid, write or stamp here, "To be Prepaid."

RECEIVED, subject to the classifications and tariffs in effect on the date of issue of this Shipping Order, the property described above, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated above, which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to the terms and conditions of the Uniform Domestic Straight Bill of Lading set forth (1) in Official, Southern, Western and Illinois Freight Classifications in effect on the date hereof, if this is a rail or a rail-water shipment, or (2) in the applicable motor carrier classification or tariff if this is a motor carrier shipment.

Shipper hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, set forth in the classification or tariff which governs the transportation of the shipment, and that he and his assigns are hereby agreed by the shipper and accepted for himself and his assigns.

SHIPPER Diamond Transfer & Dist. Co.
Salina, KS 67402

CARRIER

PER

DATE

Schwan's Logistics LLC
For Receiving of Trailers only. Counts not confirmed for pallets or product.

Signature

PER

DATE

*MARK WITH "X" TO DESIGNATE HAZARDOUS MATERIAL AS DEFINED IN TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

- ☐ ORIGINAL- NOT NEGOTIABLE- MUST BE SIGNED BY AGENT
☐ SHIPPING ORDER- RETAINED BY AGENT

- ☐ MEMORANDUM- FOR ACKNOWLEDGEMENT, FILING OR RECORD

ATTACHMENT "C"

DRIVER'S TIME RECORD

Driver's Name (print) Gary Kinnukunt Employee No. LOCAL Month Dec. Year 2017

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

- Operates within 100 air-mile radius of headquarters.
- Returns to headquarters and is released from work within 12 consecutive hours.
- At least 8 consecutive hours off duty separate each 12 hours of duty.

INTERMITTENT DRIVERS

Shall complete this form for 7 days preceding any day driving is performed.

This includes the preceding month.

Date	Start Time "All Duty"	End Time "All Duty"	Total Hours	Driving Hours	Truck Number	Headquarters
1	9 AM	5 PM	8	1	3,5,9	Tonys
2	10 AM	2 PM	4	1	3,5,9	Tonys
3	10 AM	2 PM	4	1	3,5,9	Tonys
4	9 AM	5 PM	8	1	3,5,9	Tonys
5	9 AM	5 PM	8	3	3,5,9, 48	Tonys, Kanopolis
6	9 AM	5 PM	8	3	3,5,9 47	Tonys, Kanopolis
7	9 AM	5 PM	8	1	3,5,9	Tonys
8	9 AM	5 PM	8	1	3,5,9	Tonys
9	OFF					
10	OFF		1			
11	9 AM	5 PM	8	4	3,5,9, 4	Tonys, Lyons
12	9 AM	5 PM	8	1	3,5,9	Tonys
13	9 AM	5 PM	8	3	3,5,9, 46	Tonys, Kanopolis
14	9 AM	5 PM	8	1	3,5,9	Tonys
15	9 AM	5 PM	8	1	3,5,9	Tonys
16	10 AM	2 PM	4	1	3,5,9	Tonys
17	10 AM	2 PM	4	1	3,5,9	Tonys
18	9 AM	5 PM	8	1	3,5,9	Tonys
19	9 AM	5 PM	8	3	3,5,9, 47	Tonys, Kanopolis
20	9 AM	5 PM	8	1	3,5,9	Tonys
21	9 AM	5 PM	8	1	3,5,9	Tonys
22	9 AM	5 PM	8	1	3,5,9	Tonys
23	OFF					
24	OFF					
25	OFF					
26	OFF					
27	9 AM	5 PM	8	3	3,5,9, 4, 4	Tonys, Kanop.
28	9 AM	5 PM	8	1	3,5,9	Tonys
29	9 AM	5 PM	8	3	3,5,9, 46	Tonys, Kanop
30	OFF					
31	OFF					

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

CERTIFICATE OF SERVICE

18-TRAM-314-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 FEB 06 2018.

GARY L. GORRELL, OWNER
GARY L. GORRELL
D/B/A TOPCO DISTRIBUTING CO.
PO BOX 1725
SALINA, KS 67402-1725
diamond-topco@kans.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

FEB 07 2018