

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

Sam Brownback, Governor

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

NOTICE OF PENALTY ASSESSMENT

October 28, 2014

15-TRAM-171-PEN

Marjorie Rohr, Owner d/b/a C & R Salvage 21037 CC Road Ransom, Kansas 67572

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on September 30, 2014, by Kansas Corporation Commission Special Investigator Penny Fryback. For a full description of the penalty and process please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$600 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at: http://kcc.ks.gov/trans/creditcard.pdf.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. 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.

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY:

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. Respondent must submit an original and seven (7) copies of the request to the Commission's Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2013 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully.

Michael J. Duenes Litigation Counsel (785) 271-3181

THE STATE CORPORATION COMMISSION OF THE STATE OF KANSAS

Before Commissioners:

Shari Feist Albrecht, Chair

Jay Scott Emler

Pat Apple

)	
)	
)	
)	Docket No. 15-TRAM-171-PEN
)	
)	
)	
)))))))

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. 2013 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. 2013 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. 2013 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. Marjorie Rohr, d/b/a C & R Salvage (C & R Salvage) obtained private operating authority from the Commission on September 28, 1995, and operates under KSMCID number 152497 and USDOT number 1288280.
- 5. Marjorie Rohr attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on July 15, 2013, on behalf of C & R Salvage.
- 6. C & R Salvage is a private motor carrier which primarily hauls motor vehicles, machinery, large objects and scrap metals.

III. STATEMENT OF FACTS

- 7. Pursuant to the jurisdiction and authority cited above, on September 30, 2014, Commission Staff (Staff) Special Investigator Penny Fryback conducted a compliance review of the operations of C & R Salvage. 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, Ms. Fryback identified two (2) violations of the Motor Carrier Safety Regulations.
 - a. On September 15, 2014, C & R Salvage required or permitted its driver, James Rohr, to operate a commercial motor vehicle, a 1998 Freightliner truck tractor pulling a 2005 Doonan semi-trailer, in interstate commerce from Ransom, Kansas to Watkins, Colorado. This trip is evidenced by Driver's Daily Log, dated September 15, 2014, a copy of which is attached

hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, C & R Salvage failed to maintain the responses of each state agency to the annual motor vehicle record (MVR) inquiry of its driver. C & R Salvage's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2013 Supp. 66-1,112. Staff recommends a fine of \$100.

b. During the transportation described in paragraph a., above, C & R Salvage permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. This violation is evidenced by the absence of a periodic (annual) inspection report in the maintenance file of the vehicle at the time of the compliance review. C & R Salvage's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(a), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2013 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find C & R Salvage committed two (2) violations 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 \$600 for two (2) violations of the Motor Carrier Safety Statutes, Rules and Regulations.
- 10. Staff further recommends that C & R Salvage be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.
- 11. Finally, Staff recommends that C & R Salvage submit to one follow-up safety compliance review within the next eighteen (18) months. 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 C & R Salvage because it is a motor carrier as defined in K.S.A. 2013 Supp. 66-1,108.
- 13. The Commission finds C & R Salvage committed two (2) violations of Kansas law that govern 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. Marjorie Rohr, d/b/a C & R Salvage, of Ransom, Kansas is hereby assessed a \$600 civil penalty for two (2) violations 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. C & R Salvage is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, C & R Salvage is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.
- C. Pursuant to K.S.A. 2013 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Executive Director, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of C & R Salvage's right to a hearing, and this Penalty Order will become a Final Order assessing a \$600 civil penalty against C & R Salvage, and ordering C & R Salvage to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.
- D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation shall not be permitted to enter an appearance, except by its attorney.
- E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W.

Arrowhead Road, Topeka, Kansas 66604. The payment shall include a reference to the docket number of this proceeding.

F. Failure to pay the \$600 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of C & R Salvage'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 out-of-service and/or cease and desist orders, and any other

remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Com.; Apple, Com.

Dated: _____OCT_ 2 8 2014

ORDER MAILED OCT 2 9201

Thomas A. Day

Acting Executive Director

MJD



1	US DOT	-	egai: MARJO			b			
10	1288280) 0	perating (DB	A):C & R SALVAGE					
MC/MX #:		Stat	e #:	Federal Tax I	D: (EIN)				
Review T	ype: Con	pliance	Review (CR)						
Scope:	Princ	cipal Offi	ce	Location of Review/Aud	it: Company facility in	n the U.S.	Te	rritory:	
Operation	Types	Intersta	te Intrastate	···					
C	arrier:	нм	НМ	Business: Corporation					
	nipper:	N/A	N/A	Gross Revenue:	fory	ear ending	j: 12/31/20	13	
Cargo	Tank:	1	I/A						
Company	Physica	Addres	ss:						
Contact I	Vamo:								
Phone no		(1)			Fax			-	
E-Mail Ad		117			гах				
Company		Addence	. v				***************************************		
		Address	> -						
21037 CC		70 7005							
RANSOM	, NS 6/5	12-1200							
Carrier Cl									
Exem	pt for Hir	e		Private Property					
Cargo Cla									
Motor	Vehicles		Mad	hinery, Large Objects	Other: scrap metals	5			
Hazardou	s Materia	als							
9 Mis	cellaneo	us HM	Carried	l Non-Bulk					
Equipmer	nt								
			· · · · · · · · · · · · · · · · · · ·	n Leased Trip Leased			Term Leas		
	Tractor		1	0 0	Trailer	1		0	0
Power unit									
-			the U.S.: 100						
	rrier tran I Permit i			iantities of HM? No					
			15	N/A					
Driver Int	ormation	n							
		Inte	r Intra	Average trip leased d	rivers/month: 0				
< 1	00 Miles	:		-	Total Drivers: 1				

>= 100 Miles:



CDL Drivers: 1



U.S. DOT#: 1288280

State #:

Review Date: 09/30/2014

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: Marjorie Rohr

Title: Owner

Name:

Title:





U.S. DOT #: 1288280

State #:

Review Date: 09/30/2014

Part B Violations

		1			
1 FEDERAL CRITICAL	Primary: 396.17(a)	Discovered 2	Checked 2	Drivers/V In Violation 2	
Description Using a comme Example 1998 Freightlin Trip Date 9/16/					
2* FEDERAL	Primary: 387.7(d)	Discovered 1	Checked 1	Drivers/V In Violation 0	
Description Failing to main Example 1998 Freightlin Trip Date: 9/16 No MCS-90 on	/2014	cial responsibility	<i>.</i>		
3 FEDERAL	Primary: 391.51(b)(1)	Discovered	Checked 1	Drivers/V In Violation 1	
Failing to main Example Driver James F Trip Date: 9/16 No application		on file.			
4 FEDERAL	Primary: 391.51(b)(2)	Discovered 1	Checked 1	Drivers/V In Violation 1	
Description Failing to main Example Driver James F Trip Date: 9/16 No MVR's on fi	/2014	cation file.			
5 FEDERAL	Primary: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/\ In Violation	
Description Failing to main Example Driver James F Trip Date: 9/16 No Annual revi	/2014	<u> </u>			

9/30/2014 11:26:46 AM

Page 1 of 3



Capri 6.8.8.5



U.S. DOT#: 1288280

State #;

Review Date: 09/30/2014

Part B Violations

6 FEDERAL	Primary: 391.51(b)(6)		Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked 1 1
Description Failing to mail Example Driver James	ntain a list or certificate relating to violatio	ns of motor vehicle	e laws and ordi	nances requir	ed by 391.27.
Trip Date: 9/1					
No certificate	of violations on file				
7 FEDERAL	Primary: 395.3(a)(3)(ii)		Discovered 2	Checked 30	Drivers/Vehicles In Violation Checked 1 1
Requiring or the end of the Example Driver James Trp Date: 9/16		i motor vehicle driv riod of at least 30 r	ver to drive afte minutes.	r more than 8	hours have passed since
8 FEDERAL	Primary: 395.8(f)		Discovered 7	Checked 30	Drivers/Vehicles In Violation Checke 1 1
Example Driver James Trip Date: 9/1			ner prescribed.		
9 FEDERAL	Primary: 396.3(b)(1)		Discovered 2	Checked 2	Drivers/Vehicles In Violation Checke 2 2
Description Failing to kee Example 1998 Freightl V IN #	p a maintenance record which identifies tiner	the vehicle, includi	ing make, seria	I number, year	r, and tire size.
Safety Fitness Total M Record	Rating Information: iles Operated 18,000 able Accidents 0 able Accidents/Million Miles 0.00		Number of Ve O ber of Vehicle	hicle Inspect OS Vehicle (MCMIS): 0



U.S. DOT#: 1288280

State #:

Review Date: 09/30/2014

Part B Violations

Your proposed safety rating is :	Rating Factors	Acute Critical			
	Factor 1:	S	0	0	· · · · · · · · · · · · · · · · · · ·
	Factor 2:	S	0	0	
SATISFACTORY	Factor 3:	S	0	0	
OATIO! AOTORT	Factor 4:	С	0	1	
	Factor 5:	S	. 0	0	
	Factor 6:	S	-	-	
•					

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





U.S. DOT #: 1288280

State #:

Review Date: 09/30/2014

Part B Requirements and/or Recommendations

- Maintain annual inspections in accordance with 396.17 on each vehicle. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of inspection, and the name and address of the motor carrier or entity where the report is maintained
- 2. Interstate carriers shall maintain proof of the required financial responsibility at the motor carrier's principal place of business. The proof shall consist of the endorsement(s) for Motor Carrier Policies of Insurance for Public Liability Under Sections 29 and 30 of the Motor Carrier Act of 1980" (Form MCS 90) issued by an insurer(s); Include a copy of the MCS-90 inusrance form .
- 3. Ensure that all drivers are fully and properly qualified before operating in interstate/ intrastate commerce. Maintain a complete driver qualification file for each driver, documenting the qualification process. Included in the driver qualification file is application for employment, previous employer inquiries, copy of the medical examination certificate, road test and certification, certificate of violations, and annual review.
- 4. Every motor carrier shall at least once every 12 months review the motor vehicle record of each of the drivers it employs. MVR's can be obtained by going to http://www.kcc.ks.gov then clicking on Motor Carrier on the right side of the page. There you will find a link to obtain MVR's.
- 5. Every motor carrier shall maintain a note relating to the annual review of the drivers driving record to determine that the driver meets the minnimum requirements for safe driving
- 6, Each motor carrier shall obtain a list or certificate relating to violations of the motor vehicle laws and ordinances for each driver it employs.
- 7. After June 30, 2013, driving is not permitted if 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.
- 8. The following information must be included on the form in addition to the grid: (1) Date; (2) Total miles driving today; (3) Truck or tractor and trailer number; (4) Name of carrier; (5) Driver's signature/certification;(6) 24 hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);(7) Main office address;(8) Remarks;(9) Name of co driver;(10) Total hours (far right edge of grid); change of duty status locations, and(11) Shipping document number(s), or name of shipper and commodity.
- 9. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. Maintainenance files must identify the vehicle by make, serial number, year and tire size.,
- 10. 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 user 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



U.S. DOT #: 1288280

State #:

Review Date: 09/30/2014

Part B Requirements and/or Recommendations

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

- 11. This review will result in a Safety Rating.
- 12. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
- 13. Within 15 days you must prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter, and any additional evidence necessary to prove the corrective action has been taken to:

Kansaş Corporation Commission Att: Gary Davenport 1500 SW Arrowhead Road Topeka, KS 66604-4027

14.	1. Transpice Polar	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 suspens	ion of Marjorie Rohr d/b/a C & R Salvage operating authority
	and/or the impoundment of Marjorie Rohr d/b/a C &	



ATTACHMENT "B"

RECAB Complete at	Fig. 64 (c)	A control of the cont	C ASSESSED OF STATE O	A. Trend beard vo. Story line in tro Her Radium, bestrip.	Available of the second of the	Problems on the problems of th	
124 HOURS)	Total Silies Driving Toolsy Toula Silbeage Toolsy AMADM Methodice Astrony Methods Toula Silbeage Toolsy AMADM Methods Toula Silbeage Toula Si	e e	3. DRIVING MANUELLA STATE OF THE STATE OF TH	of banky 08 30 74/20	SHIPPING HOLLINGS NOCHEMS:	B/L or Manifest No. Shipper & Commodite Mais page 1 place 1 p	

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NO. CERT. COPIES NO. PLAIN COPIES

NAME AND ADDRESS

MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***

MARJORIE ROHR, OWNER D/B/A C & R SALVAGE 21037 CC ROAD RANSOM, KS 67572-7205

ORDER MAILED OCT 2 9 2014