

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

Before Commissioners: Jay Scott Emler, Chairman  
Shari Feist Albrecht  
Pat Apple

In the Matter of the Investigation of )  
**Todd Miller Trucking, Inc. of** )  
**Wathena, Kansas,** Regarding the )  
Violation of the Motor Carrier Safety )  
Statutes, Rules and Regulations and the ) Docket No. 16-TRAM-453-PEN  
Commission's Authority to Impose )  
Penalties, Sanctions and/or the )  
Revocation of Motor Carrier Authority. )

**ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

**I. JURISDICTION AND BACKGROUND**

1. Pursuant to K.S.A. 2015 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. 2015 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. 2015 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. Pursuant to K.S.A. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

## **II. FINDINGS OF FACTS**

4. Todd Miller Trucking, Inc. of Wathena, Kansas (Respondent) is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.

5. Respondent operates under USDOT Number 642959.

6. On April 26, 2016, Respondent was issued a penalty assessment for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on April 8, 2016, by Kansas Corporation Commission Special Investigator Verna Jackson. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.

7. The Penalty Order was mailed to Respondent via certified mail, return receipt requested, on April 26, 2016. A Proof of Service of the Penalty Order was filed on May 25, 2016, indicating the Respondent was served with the Penalty Order on May 2, 2016.

8. As of July 25, 2016, Commission records indicate Respondent has not complied with requirements of the Penalty Order in that Respondent had thirty (30) days from service to pay the fine amount of \$600, and Transportation Division records indicate

the fine is unpaid. Further, Respondent was mailed a letter dated July 8, 2016, to the carrier's mailing address, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order, giving the Respondent ten (10) days from the date of the collection letter to pay the penalty amount.

9. On July 25, 2016, Commission Staff filed a Motion to Suspend Intrastate Motor Carrier Operations due to the carrier's failure to pay.

### **III. CONCLUSIONS OF LAW**

9. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

10. The Commission finds Respondent received sufficient notice of the Commission's Penalty Order and the requirement to pay the fine within 30 days of the Order.

11. The Commission finds Respondent failed to act upon this notice.

12. The Commission finds Respondent's failure to comply with the requirements of the Penalty Order is intentional and therefore this Commission orders the Respondent to suspend all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

#### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Todd Miller Trucking, Inc. of Wathena, Kansas is to be immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as Respondent pays the penalty amount of \$600 and brings its

motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

B. **Pursuant to K.S.A. 2015 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 Secretary, at 1500 S.W. Arrowhead Road Topeka, Kansas 66604 within fifteen (15) days from the date of service of this Order.** Service of this order will be by certified mail, return receipt requested, and service is complete when Respondent signs the Domestic Return Receipt. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations, ordering Respondent to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance.

C. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized

representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

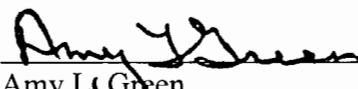
D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

E. 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.**

Emler, Chair; Albrecht, Commissioner; Apple, Commissioner

Dated: AUG 04 2016

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

**Order Mailed Date**

**AUG 05 2016**

1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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



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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT 16-TRAM-453-PEN

April 26, 2016

Todd Miller, President  
Todd Miller Trucking, Inc.  
PO Box 541  
Wathena, Kansas 66090

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 April 8, 2016, by Kansas Corporation Commission Special Investigator Verna Jackson. 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](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.

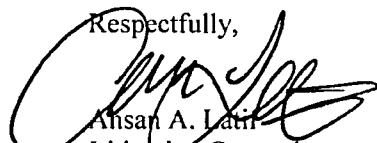
### IF YOU CONTEST THE PENALTY:

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 Secretary 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. 2015 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,



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

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

Before Commissioners:     Jay Scott Emler, Chairman  
                                     Shari Feist Albrecht  
                                     Pat Apple

In the Matter of the Investigation of **Todd Miller**     )  
**Trucking, Inc., of Wathena, Kansas,**     )  
Regarding the Violation of the Motor Carrier     )  
Safety Statutes, Rules and Regulations and the     ) Docket No. 16-TRAM-453-PEN  
Commission's Authority to Impose Penalties,     )  
Sanctions and/or the Revocation of Motor     )  
Carrier Authority.     )

**PENALTY ORDER**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, finds and concludes as follows:

**I. JURISDICTION**

1. Pursuant to K.S.A. 2015 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. 2015 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. 2015 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. Todd Miller Trucking, Inc. (Todd Miller Trucking) operates under USDOT number 642959.

5. Todd Miller Trucking owns one truck and one trailer and operates interstate and intrastate commerce.

6. Todd Miller Trucking is a common motor carrier which primarily hauls grain, feed and hay.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on April 8, 2016, Commission Staff (Staff) Special Investigator Verna Jackson conducted a compliance review of the operations of Todd Miller 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, Ms. Jackson identified two (2) violations of the Motor Carrier Safety Regulations.

- a. On January 29, 2016, Todd Miller Trucking required or permitted its driver, Randy Gildersleeve, to operate a commercial motor vehicle, a 1999 Kenworth, VIN ending in 837569, pulling a 2014 Timp trailer, VIN ending in 143552, in intrastate commerce from Beattie, Kansas to Atchison, Kansas. This trip is evidenced by Driver's Time Record, a copy

of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Todd Miller Trucking failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier'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. 2015 Supp. 66-1,112. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, Todd Miller Trucking did not have Kansas Corporation Commission motor carrier operating authority to travel from point-to-point in Kansas. The carrier's commercial operation of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2015 Supp. 66-1,111 and 49 C.F.R. 392.2, as adopted by K.A.R. 82-4-3h and authorized by K.S.A. 2015 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 Todd Miller Trucking 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 Todd Miller Trucking 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Todd Miller Trucking 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 Todd Miller Trucking because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

13. The Commission finds Todd Miller Trucking 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.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Todd Miller Trucking, Inc., of Wathena, 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. Todd Miller Trucking 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, Todd Miller Trucking is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2015 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 Secretary, 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 Todd Miller Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$600 civil penalty against Todd Miller Trucking, and ordering Todd Miller Trucking 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. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2015 Supp. 66-1,142b(e) and amendments thereto.

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.*

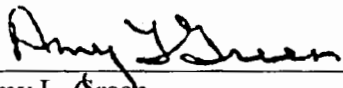
F. Failure to pay the \$600 civil penalty within thirty (30) days of the service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Todd Miller Trucking's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of 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 orders, as necessary.

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

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: APR 26 2016


  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL

**Order Mailed Date**

**APR 27 2016**

## **ATTACHMENT "A"**

	<b>US DOT #</b> 642959	<b>Legal:</b> TODD MILLER TRUCKING INC <b>Operating (DBA):</b>									
<b>MC/MX #:</b> 370226		<b>Federal Tax ID:</b> [REDACTED] (EIN)									
<b>Review Type:</b> Non-ratable Review - CSA											
<b>Scope:</b>	Principal Office	<b>Location of Review/Audit:</b> CSA Off-site	<b>Territory:</b>								
<b>Operation Types</b>		<b>Business:</b> Other									
<table border="1"> <tr> <td>Interstate</td> <td>Intrastate</td> </tr> <tr> <td>Carrier: Non-HM</td> <td>Non-HM</td> </tr> <tr> <td>Shipper: N/A</td> <td>N/A</td> </tr> <tr> <td>Cargo Tank: N/A</td> <td></td> </tr> </table>		Interstate	Intrastate	Carrier: Non-HM	Non-HM	Shipper: N/A	N/A	Cargo Tank: N/A		<b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2015	
Interstate	Intrastate										
Carrier: Non-HM	Non-HM										
Shipper: N/A	N/A										
Cargo Tank: N/A											
<b>Company Physical Address:</b>											
[REDACTED]											
<b>Contact Name:</b> Todd Miller											
<b>Phone numbers: (1)</b> [REDACTED]											
<b>E-Mail Address:</b> [REDACTED]											
<b>Company Mailing Address:</b>											
P O BOX 541 WATHENA, KS 66090											
<b>Carrier Classification</b>											
Authorized for Hire											
<b>Cargo Classification</b>											
Grain, Feed, Hay											
<b>Equipment</b>											
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>								
Truck Tractor	1	0	0								
Trailer											
	<b>Owned</b>	<b>Term Leased</b>	<b>Trip Leased</b>								
	1	0	0								
Power units used in the U.S.: 1											
Percentage of time used in the U.S.: 100											
<b>Does carrier transport placardable quantities of HM?</b> No											
<b>Is an HM Permit required?</b> N/A											
<b>Driver Information</b>											
	<b>Inter</b>	<b>Intra</b>	<b>Average trip leased drivers/month:</b> 0								
< 100 Miles:			<b>Total Drivers:</b> 1								
>= 100 Miles:	1		<b>CDL Drivers:</b> 1								





**TODD MILLER TRUCKING INC**  
U.S. DOT #: 642959

Review Date:  
04/08/2016

**Part A**

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

1500 SW Arrowhead  
Topeka, Kansas 66604  
Telephone 785-271-3104

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

**Person(s) Interviewed**

**Name:** Todd Miller

**Title:** President

**Name:**

**Title:**



	<b>TODD MILLER TRUCKING INC</b>	Review Date:
	U.S. DOT #: 642959	04/08/2016

### Part B Violations

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

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

#### Example

January 29, 2016

St Joseph MO to Wathena KS

MVRs were dated December 1, 2014 and March 4, 2016

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

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

#### Example

January 29, 2016

St Joseph MO to Wathena KS

MVRs were dated December 1, 2014 and March 4, 2016 - No annual inquiry of the MVR provided and no note relating to the annual review of the driver's MVR conducted.

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

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

#### Example

January 29, 2016

St Joseph MO to Wathena KS

MVRs were dated December 1, 2014 and March 4, 2016 - No annual inquiry of the MVR provided and no list or certificate relating to violations were conducted

4 STATE	Primary: 392.2 Secondary: KSA 66-1,111	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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#### Description

Operating a commercial motor vehicle without KCC public carrier (KAN-C) operating Authority.

#### Example

January 29, 2016

Beattie KS to Atchison KS

Carrier operating as For Hire without the necessary KCC public carrier operating authority.

#### Safety Fitness Rating Information:

Total Miles Operated 65,140  
Recordable Accidents 0

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





**TODD MILLER TRUCKING INC**  
U.S. DOT #: 642959

Review Date:  
04/08/2016

**Part B Violations**

Your proposed safety rating is :

**This Review is not Rated.**





**TODD MILLER TRUCKING INC**  
U.S. DOT #: 642959

Review Date:  
04/08/2016

### **Safety Management Process Breakdowns and Remedies**

1. 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.

#### **2. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking**

**DESCRIPTION OF PROCESS BREAKDOWN:** Todd Miller Trucking Inc failed to inquire into the driver's driving record annually. As such the carrier would not have been able to determine if the driver was qualified to operate a CMV. Verifying the driver's driving record annually not only supports compliance but allows the motor carrier the opportunity to validate the driver's license continues to be valid.

#### **BASIC SPECIFIC RECOMMENDED REMEDIES**

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

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

#### **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.

3. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor





**TODD MILLER TRUCKING INC**  
U.S. DOT #: 642959

Review Date:  
04/08/2016

### Safety Management Process Breakdowns and Remedies

vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

4. Per 49 CFR 391.51(b)(5) and (b)(6), the motor carrier is required to process an annual review and certification of the driver's driving record - 391.51(b)(5) A note relating to the annual review of the driver's driving record as required by 391.25(c)(2); 391.51(b)(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.
5. Intrastate operation beyond exempt radius in Kansas requires carrier to obtain KAN-C operating authority from Kansas Corporation Commission prior to operating in commerce. Records indicate the carrier transported Y-Corn from Beattie, KS to Atchison, KS, a distance of 86.6 miles per MapQuest.
6. For all Investigations:
  - Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
  - Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
  - NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
  - NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

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

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

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.





**TODD MILLER TRUCKING INC**  
U.S. DOT #: 642959

Review Date:  
04/08/2016

### **Safety Management Process Breakdowns and Remedies**

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

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 15 days and any additional evidence necessary to prove the corrective action has been taken to:

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



**ATTACHMENT "B"**

# DRIVER'S TIME RECORD

NAME: Randy

EMPLOYEE# MONTH: JAN YEAR: 2016

DATE	START TIME	END TIME	HRS	TRK#	TRIP INFORMATION	PRODUCT
1					HOLIDAY	
2					WEEKEND	
3					WEEKEND	
4	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
5	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
6						
7	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
8	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
9					WEEKEND	
10					WEEKEND	
11	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
12	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
13	7:00 AM	1:00 PM	5	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
14						
15						
16					WEEKEND	
17					WEEKEND	
18						
19						
20						
21						
22						
23					WEEKEND	
24					WEEKEND	
25						
26	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
27	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
28	7:00 AM	5:00 PM	10	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
29	7:00 AM	1:00 PM	5	99	BEATTIE,KS TO ATCHISON,KS = BARTLETT	Y-CORN
30					WEEKEND	
31					WEEKEND	

**CERTIFICATE OF SERVICE**

16-TRAM-453-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 **APR 26 2016**.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

TODD MILLER, PRESIDENT  
TODD MILLER TRUCKING, INC.  
PO BOX 541  
WATHENA, KS 66090  
millerfarms@mac.com

/S/ DeeAnn Shupe  
DeeAnn Shupe

**Order Mailed Date**

**APR 27 2016**

**CERTIFICATE OF SERVICE**

16-TRAM-453-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 AUG 04 2016.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

TODD MILLER, PRESIDENT  
TODD MILLER TRUCKING, INC.  
PO BOX 541  
WATHENA, KS 66090  
millerfarms@mac.com

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

**Order Mailed Date**

**AUG 05 2016**