

**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 Emergency Suspension of)
Operating Authority of **Donald E. Cupp, d/b/a**)
Don's Firewood of Wichita, Kansas, for Failure) Docket No. 15-TRAM-400-OOS
to Comply with New Entrant Safety Requirements)
as Required by the Motor Carrier Safety Statutes,)
Rules and Regulations.)

ORDER REINSTATING MOTOR CARRIER OPERATING AUTHORITY

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission) upon its own motion. The Commission, being fully advised in the premises, finds as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2014 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2014 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. 2014 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, 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. 2014 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. BACKGROUND

4. Donald E. Cupp, d/b/a Don's Firewood is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108 that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

5. Donald E. Cupp, d/b/a Don's Firewood is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 2464085.

6. The Commission received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that Donald E. Cupp, d/b/a Don's Firewood's New Entrant Registration had been revoked effective March 10, 2015 for failure to comply with safety requirements.

7. Pursuant to the above authority, on March 17, 2015, the Commission entered an Emergency Suspension of Operating Authority Order on Donald E. Cupp, d/b/a Don's Firewood in the above-referenced docket, until such time that Staff recommended reinstatement.

III. STAFF'S RECOMMENDATION

8. On April 10, 2015, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation,

Federal Motor Carrier Safety Administration, that Donald E. Cupp, d/b/a Don's Firewood has submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 2464085 has been approved and the carrier's authority to operate in interstate operations has been reinstated. See attached FMCSA reinstatement documentation.

9. Based on the Federal Motor Carrier Safety Administration's reinstatement, it is Staff's recommendation to reinstate Donald E. Cupp, d/b/a Don's Firewood's motor carrier operating authority in Kansas.

IV. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Donald E. Cupp, d/b/a Don's Firewood because it is a motor carrier as defined in K.S.A. 2014 Supp. 66-1,108.

11. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Donald E. Cupp, d/b/a Don's Firewood's operating authority in Kansas is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

(A) Donald E. Cupp, d/b/a Don's Firewood's certificate, permit or license that is necessary to carry on the business of a private and/or public motor carrier in Kansas is hereby reinstated.

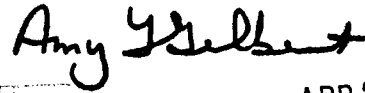
(B) Donald E. Cupp, d/b/a Don's Firewood remains obligated to attend a Commission-sponsored safety seminar pursuant to the Emergency Suspension of Operating Authority Order at paragraph B., entered on March 17, 2015.

(C) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further Orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: APR 21 2015



Order Mailed Date APR 22 2015

Amy L. Gilbert
Secretary

MJD



U.S. Department of
Transportation
**Federal Motor
Carrier Safety
Administration**

DONALD EUGENE CUPP
OWNER
DONALD E CUPP
DON'S FIREWOOD
218 N CHARLES
WICHITA, KS 67203

1200 New Jersey Ave., S.E.
Washington, DC 20590
April 10, 2015

In reply refer to:
USDOT Number: 2464085

According to Federal Motor Carrier Safety Administration's (FMCSA) records, thirty days have elapsed since DONALD E CUPP's USDOT New Entrant registration was revoked on March 10, 2015, based on a failed safety audit conducted on December 19, 2014. Our records also indicate that DONALD E CUPP has reapplied in accordance with 49 CFR section 385.329. DONALD E CUPP's reapplication for USDOT New Entrant registration has been approved.

DONALD E CUPP's 18-month new entrant safety monitoring period restarts as of April 10, 2015. FMCSA will continue to monitor and evaluate DONALD E CUPP's safety management practices and on-road performance to ensure DONALD E CUPP has basic safety management controls that are operating effectively and is complying with Federal requirements including the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Federal Hazardous Materials Regulations (HMRs). Failure to comply with applicable requirements may result in the revocation of DONALD E CUPP's USDOT New Entrant or permanent registration.

Sincerely,

Joseph P. DeLorenzo, Director, Office of
Enforcement and Compliance

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

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
DONALD E. CUPP, OWNER D/B/A DON'S FIREWOOD 218 N CHARLES WICHITA, KS 67203		
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		

Order Mailed Date APR 22 2015

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.