



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

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

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

July 30, 2019

20-TRAM-027-PEN

Steve Hoesli, General Manager
Delphos Cooperative Association
413 West 1st Street
Delphos, KS 67436

This is a notice of a penalty assessment against Delphos Cooperative Association (Delphos Cooperative) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 2, 2019, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Delphos Cooperative has been assessed a \$700 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$700, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Delphos Cooperative to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY ORDER: **You have the right to request a hearing.** A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Delphos Cooperative must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$700 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

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

In the Matter of the Investigation of **Delphos**)
Cooperative Association, of Delphos, KS,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-027-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). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.A.R. 82-4-1b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.A.R. 82-4-1, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 2018 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard

to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Delphos Cooperative Association (Delphos Cooperative) has private operating authority with the Commission and further operates under USDOT number 852135.

5. David G. Kiser attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on July 8, 2019, on behalf of Delphos Cooperative.

6. Delphos Cooperative is a private motor carrier which primarily hauls grain, feed, hay and farm supply.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 2, 2019, Commission Staff (Staff) Special Investigator Gregory Askren conducted a safety compliance review of the operations of Delphos Cooperative. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 30, 2019, Delphos Cooperative required or permitted its driver, Jamie Smith, to operate a CDL-required commercial motor vehicle, a 2003 International, VIN ending in 574434, GVWR 33,000 lbs., pulling a 2018

UNVER trailer, VIN ending in 210107, GVWR 38,700 lbs., in intrastate commerce in and around the area of Delphos, Kansas. This trip is evidenced by Invoice No. 2547S, dated May 30, 2019, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Delphos Cooperative failed to first designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a, above, Delphos Cooperative 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)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,112. Staff recommends a fine of \$100.

- c. During the transportation described in paragraph a, above, Delphos Cooperative did not have Kansas Corporation Commission public carrier (KAN-C) operating authority. The carrier's commercial operations of motor vehicles prior to obtaining and maintaining proper Commission authority is a violation of K.S.A. 2018 Supp. 66-1,111 and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Delphos Cooperative committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$700 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Delphos Cooperative be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that Delphos Cooperative submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order.

Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over Delphos Cooperative because it is a motor carrier as defined in K.A.R. 82-4-1.

13. The Commission finds Delphos Cooperative committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Delphos Cooperative Association, of Delphos, KS is hereby assessed a \$700 civil penalty for three (3) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Delphos Cooperative is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

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

D. Delphos Cooperative is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

E. Pursuant to K.S.A. 2018 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Delphos Cooperative's right to a hearing, and this Penalty Order will become a Final Order assessing a \$700 civil penalty against Delphos Cooperative, and ordering a representative from Delphos Cooperative to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2018 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$700 is due in thirty (30) days from the date of service of this Order. Payment of \$700 must be made through

your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$700 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Delphos Cooperative's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner


Dated: 07/30/2019



Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

	US DOT # 852135	Legal: DELPHOS COOPERATIVE ASSOCIATION Operating (DBA):																					
MC/MX #:		Federal Tax ID:		(EIN)																			
Review Type: Compliance Review (CR)																							
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S.		Territory: E																			
Operation Types <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Interstate</td> <td style="width:15%;">Intrastate</td> <td colspan="4"></td> </tr> <tr> <td>Carrier: N/A</td> <td>HM</td> <td colspan="4" rowspan="3"> Business: Corporation Gross Revenue: for year ending: 11/30/2018 </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: N/A	HM	Business: Corporation Gross Revenue: for year ending: 11/30/2018				Shipper: N/A	N/A	Cargo Tank: N/A			
Interstate	Intrastate																						
Carrier: N/A	HM	Business: Corporation Gross Revenue: for year ending: 11/30/2018																					
Shipper: N/A	N/A																						
Cargo Tank: N/A																							
Company Physical Address: 413 WEST 1ST STREET DELPHOS, KS 67436-4041 Contact Name: Steve Hoesli Phone numbers: (1) E-Mail Address:																							
Company Mailing Address: 413 WEST 1ST STREET DELPHOS, KS 67436-4041																							
Carrier Classification Private Property																							
Cargo Classification Grain, Feed, Hay Farm Supply																							
Hazardous Materials 2.2 Anhydrous ammonia Carried Non-Bulk																							
Equipment <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td>8</td> <td>0</td> <td>0</td> <td>Trailer</td> <td>3</td> <td>0</td> <td>0</td> </tr> </table>							Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	8	0	0	Trailer	3	0	0		
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased																
Truck	8	0	0	Trailer	3	0	0																
Power units used in the U.S.: 8 Percentage of time used in the U.S.: 100																							
Does carrier transport placardable quantities of HM? Yes																							
Is an HM Permit required? No																							
Driver Information <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%;">Inter</td> <td style="width:15%;">Intra</td> <td colspan="3"> Average trip leased drivers/month: 0 </td> </tr> <tr> <td>< 100 Miles:</td> <td></td> <td>12</td> <td colspan="3"> Total Drivers: 12 </td> </tr> <tr> <td>>= 100 Miles:</td> <td></td> <td></td> <td colspan="3"> CDL Drivers: 12 </td> </tr> </table>							Inter	Intra	Average trip leased drivers/month: 0			< 100 Miles:		12	Total Drivers: 12			>= 100 Miles:			CDL Drivers: 12		
	Inter	Intra	Average trip leased drivers/month: 0																				
< 100 Miles:		12	Total Drivers: 12																				
>= 100 Miles:			CDL Drivers: 12																				





DELPHOS COOPERATIVE ASSOCIATION
U.S. DOT #: 852135

Review Date:
07/02/2019

Part A

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

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name: Steve Hoesli

Title: General Manager

Name: Phillip Kirckoff

Title: Office Manager




	DELPHOS COOPERATIVE ASSOCIATION	Review Date: 07/02/2019
	U.S. DOT #: 852135	

Part B Violations

1 STATE CRITICAL	Primary: 391.51(b)(2) CFR Equivalent: 391.51(b)(2)	Discovered 2	Checked 5	Drivers/Vehicles In Violation : Checked 2 5
Description Failing to maintain inquiries into driver's driving record in driver's qualification file. Example Driver - Jamie L Smith DOB - Ks. OL Trip Date - 5/31/2019 On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514 GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to maintain inquiries into the drivers driving record (within 30 days of hiring) in the drivers qualification file.				
2 FEDERAL	Primary: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked 1
Description Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances. Example Driver - Jamie L Smith DOB - Ks. OL Trip Date - 5/31/2019 On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514 GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.				
3 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 1	Checked 5	Drivers/Vehicles In Violation Checked 1 5
Description Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a). Example Driver - Jamie L Smith DOB - Ks. OL Trip Date - 5/31/2019 On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514 GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).				



	DELPHOS COOPERATIVE ASSOCIATION	Review Date:
	U.S. DOT #: 852135	07/02/2019

Part B Violations

4 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
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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).

Driver - Jamie L Smith

DOB - 7/8/1986

Ks. OLN

Trip Date

On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514

GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

5 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
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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

Driver - Jamie L Smith

DOB -

Ks OL

Trip Date - 5/31/2019

On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514

GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

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

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

Example

Driver - Jamie L Smith

DOB -

Ks. OL

Trip Date - 4/24/2019

On an Intrastate trip from Delphos Ks to Lebonon Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514

GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop operated a commercial motor vehicle without KCC public carrier (Kan-C) operating authority.

7 STATE	Primary: 396.3(b)(1) CFR Equivalent: 396.3(b)(1)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
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Description

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.

Example

Driver - Jamie L Smith

DOB -

Ks. OL

Trip Date - 5/31/2019

On an Intrastate trip from Delphos Ks to Delphos Ks. driving a 2003 Intl, Vin # 574434 Ks. Reg. 626514

GVWR 33000 pulling a 2018 Unver, Vin # 210107, GVWR 38700, Delphos Coop failed to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.



	DELPHOS COOPERATIVE ASSOCIATION	Review Date:
	U.S. DOT #: 852135	07/02/2019

Part B Violations

Safety Fitness Rating Information:

Total Miles Operated 150,000
Recordable Accidents 1
Recordable Accidents/Million Miles 6.67

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 0
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 1

Your proposed safety rating is :

SATISFACTORY

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	C	0	1
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	S	0	0
Factor 6:	S	-	-



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 (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>

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 email the letter along with copies of your supporting evidence to:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd



Part B Requirements and/or Recommendations

Topeka, KS 66604-4027

g.davenport@kcc.ks.gov

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

DESCRIPTION OF PROCESS BREAKDOWN - Comply with the requirement to have a reasonable suspicion supervisor that has had the 120 minutes of reasonable suspicion testing.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

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

Seek Out Resources:

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

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - review MVR's annually to insure compliance.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy for the periodic review (at least twice per year) of driver qualification files. The motor carrier should not rely on third-party sources, such as insurance agencies. The procedure should include controls to ensure that documents requiring renewals are in place, to remind drivers of expiration dates on medical certificates, so they



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can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.

- Establish a policy requiring drivers to submit copies of all vehicle and roadside inspections and moving violations to carrier management within 24 hours, and to notify management of suspended or revoked Commercial Driver's Licenses (CDLs) immediately following notification of suspension/revocation.
- Establish a policy requiring all new (since 2003) Commercial Driver's License (CDL) drivers to submit documentation of entry-level driver training in - for example, driver qualification requirements, Hours of Service (HOS), driver wellness, and whistleblower protection - or to take entry-level training provided by the carrier.
- Develop a policy for document retention and recordkeeping, including documents that are to be in the possession of the driver as proof of credentials.
- Develop a process to ensure that operations will always have the proper amount of fit drivers. This process would address how to deal with issues such as sick leave, vacation, training, suspension, and termination.
- 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 Driver Fitness Violations.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
 - Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry
4. You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: [http://ai.fmcsa dot.gov/sms](http://ai.fmcsa.dot.gov/sms). Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review you safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.
 5. Accident Countermeasures is a set of defensive strategies designed to reduce preventable accidents. The strategies and forms for implementing accident countermeasures can be found on the FMCSA website at: <http://www.fmcsa.dot.gov/forms/print/accident.htm>
 6. 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
 7. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
 8. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
 9. Obtain a copy of each driver's driving record and review it annually.
 10. Maintain all required alcohol and controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR .
 11. 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 failed to renew and the authority was cancelled.
 12. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of



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every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

13. 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
14. 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 Delphos Cooperative Association operating authority and/or the impoundment of Delphos Cooperative Association vehicles.

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

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their recurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov
Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Steve Hoesli
Carrier Representative

7-2-19
Date

Steve Hoesli GM
Printed name and Title



ATTACHMENT “B”



Address Bolt Farms Jewell 66949 unit 18

2547S Rec'd by _____

All claims and returned goods MUST be accompanied by this bill

CERTIFICATE OF SERVICE

20-TRAM-027-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
first class mail/hand delivered on 07/31/2019.

STEVE HOESLI, GENERAL MANAGER
DELPHOS COOPERATIVE ASSOCIATION
413 WEST 1ST STREET
DELPHOS, KS 67436-4041
stevehoesli@delphoscoop.com

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

/S/ DeeAnn Shupe

DeeAnn Shupe