

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
22-TRAM-069-PEN

August 12, 2021

Terry Sowers, President
Dependable Pallet Inc
1634 S Mead
Wichita, KS 37211

This is a notice of a penalty assessment against Dependable Pallet Inc (Dependable Pallet) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted July 30, 2021, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. 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: Dependable Pallet has been assessed a \$4,650 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$4,650, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (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 Dependable Pallet 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.

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. Dependable Pallet 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.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$4,650 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,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

Before Commissioners: Andrew J. French, Chairperson
Dwight D. Keen
Susan K. Duffy

PENALTY ORDER

I. JURISDICTION

2. Pursuant to K.S.A. 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. Dependable Pallet Inc (Dependable Pallet or Carrier) has private operating authority with the Commission and further operates under USDOT number 1549823.

5. Samantha Stillman attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on July 15, 2019, on behalf of Dependable Pallet.

6. Dependable Pallet is a private motor carrier which primarily hauls pallets.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 30, 2021, Commission Staff (Staff) Special Investigator Gregory Askren conducted a safety compliance review of the operations of Dependable Pallet. 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 nine (9) violation(s) of the Motor Carrier Safety Regulations.

- a. On April 29, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a

trailer #7060, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated April 29, 2021, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Dependable Pallet failed to maintain a driver qualification file on its driver, containing the documents required by regulation. The Special Investigators discovered two (2) violations of this type. The Carrier’s failure to maintain a driver qualification file is a violation of 49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

- b. On April 9, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #7060, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated April 9, 2021, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, the Carrier failed to require its driver to keep record of duty status. The Special Investigators found three (3) violations of this type. The Carrier’s failure to require the driver to prepare a record of duty is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

- c. During the transportation described in paragraph b., above, Dependable Pallet failed to maintain minimum records of inspection and maintenance on the commercial motor vehicle operated. The Special Investigators found five (5) violations of this type. The Carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.
- d. During the transportation described in paragraph a., above, Dependable Pallet allowed the driver to operate a commercial motor vehicle without having a CDL Class A license. The Carrier's failure to ensure the driver had a CDL Class A license before operating a motor commercial motor vehicle is in violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, enforcing K.S.A. 8-2,125, *et. seq.*, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.
- e. On March 3, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #787, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated March 3, 2021, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, Dependable Pallet failed to conduct a pre-employment alcohol and controlled

substance test with a negative result prior to allowing driver, McVay, to operate a commercial motor vehicle. This is evidenced by a Negative Result Test dated April 19, 2021, a copy of which is attached hereto as Attachment “E” and is hereby incorporated by reference. The Carrier’s failure to require its driver to submit to a pre-employment alcohol and/or controlled substances USDOT regulated test and to obtain a negative test result within 30 days of him/her employment and prior to requiring or permitting him/her to operate a commercial motor vehicle is a violation of 49 C.F.R. 382.301(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$650.

- f. During the transportation described in paragraph e., above, Dependable Pallet failed to have its driver, McVay, in the alcohol and controlled substance random testing pool, failing to ensure that each of its CDL drivers have an equal chance at being selected. The Special Investigators found three (3) violations of this type. The Carrier’s failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are made is in violation of 49 C.F.R. 382.305(i)(2), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$650.
- g. On April 9, 2021, Dependable Pallet required or permitted its driver, Terry Sowers, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #7234, in intrastate commerce in and around the city of Wichita, Kansas.

This trip is evidenced by a Packing Slip #4816, dated April 9, 2021, a copy of which is attached hereto as Attachment “F” and is hereby incorporated by reference. At the time of this transportation, Dependable Pallet failed to maintain the responses of each state agency to the annual driver record inquiry required by 49 C.F.R.391.25(a). The Carrier’s failure to maintain the required responses to the annual driver record inquiry is in violation of 49 C.F.R. 391.51(b)(4), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1, 129. Staff recommends a fine of \$100.

- h. During the transportation described in paragraph g., above, Dependable Pallet operated in intrastate commerce without having Kansas Operating Authority. The Carrier’s failure to have Kansas Operating Authority and continue operate is in violation of K.S.A. 66-1,112g and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.
- i. During the transportation described in paragraph g., Dependable Pallet permitted the operation of a vehicle that was not registered. The Special Investigators found five (5) violations of this type. The Carrier’s failure to obtain a commercial registration for its commercial motor vehicle is a violation of K.S.A. 8-142(1) and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Staff submitted a Report and Recommendation (R&R), dated August 4, 2021, attached hereto as Attachment "G" and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

9. Based upon the available facts, Staff recommends the Commission finds Dependable Pallet committed nine (9) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Additionally, Staff recommends a civil penalty of \$4,650 for nine (9) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from Dependable Pallet 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.

12. Staff further recommends Dependable Pallet submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

13. Finally, Staff recommends that Dependable Pallet 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

14. The Commission finds it has jurisdiction over Dependable Pallet pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds Dependable Pallet committed nine (9) 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. Dependable Pallet Inc, of Wichita, KS is hereby assessed a \$4,650 civil penalty for nine (9) 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. Dependable Pallet 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, documenting the violation(s) described in this Penalty Order, including specific and detailed information

explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Dependable Pallet 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. 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 Dependable Pallet's right to a hearing, and this Penalty Order will become a Final 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.²

G. If you do not request a hearing, the payment of the civil penalty of \$4,650 is due in thirty (30) days from the date of service of this Order. Payment of \$4,650 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking

² . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

Regulatory Assistance Network (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 \$4,650 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Dependable Pallet's motor carrier operating authority without further notice.³ 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.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 08/12/2021



Lynn M. Retz
Executive Director

AAL

³ K.S.A. 66-1,105.

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 1549823
MC/MX#: 0

Legal: DEPENDABLE PALLET INC
Operating (DBA):

Investigation Date:
07/30/21

Investigation Type: Offsite Investigation

Physical Address

1634 S MEAD
WICHITA, KS 67211
United States

Mailing Address

1634 S MEAD
WICHITA, KS 67211
United States

Contact Information

Contact Name: Samantha Stillman

Email: [REDACTED]
Phone: [REDACTED] **Cell:** ()- [REDACTED] **Fax:** ()- [REDACTED]

Business and Financial

Business Type: Corporation

Gross Revenue: [REDACTED]

Operation Classification and Type

Type of Operation: Non-HM Intrastate Carrier

Operation Classification

Private Motor Carrier

Property – Non-Hazardous Materials

Cargo

Other (Pallets)

Equipment

	Owned	Term Leased	Trip Leased
Straight Trucks	2		
Truck Tractors	2		
Trailers	1		

Power units used in the U.S.: 4

Percentage of time used in the U.S.: 100%

Driver Information

Drivers

	Intrastate	Interstate
< 100 Miles	3	
> = 100 Miles		

Average trip leased driver/month: 0

Drivers with CDL: 2

Total Drivers: 3

Person(s) Interviewed

Name: TERRY SOWERS

Title: PRESIDENT

Person(s) Interviewed**Name:** Samantha Stillman**Title:** Secretary**Questions**

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

1303 SW FIRST AMERICAN PL STE 200
TOPEKA, KS 66604-4040
Phone: (785) 271-1260
Fax: (877) 547-0378

This report will be used to assess your safety compliance.

Violations

<div><div>1. Primary: 391.51(a)</div><div>Failing to maintain driver qualification file on each driver employed.</div><div><div>C</div><div><div>Critical</div><div>At least 10% of the number checked had violations</div></div></div></div>	<div><div>Violations Discovered</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>2</td><td>2</td></tr></table><div>Checked</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>3</td><td>3</td></tr></table></div>	Fed	State	Total		2	2	Fed	State	Total		3	3	<div><div>BASIC Impacted</div><div>Driver Fitness</div></div>	<div><div>Rating Factor 2:</div><div>Driver = Part 391</div></div>
Fed	State	Total													
	2	2													
Fed	State	Total													
	3	3													
<div><div>Example/Notes:</div><div>Driver name, Dale McVay</div><div>Trip date.; 4/29/2021</div><div>Description of violation: Failing to maintain driver qualification file on each driver employed.</div></div>		<div><div>Drivers/Vehicles</div><table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>2</td><td>3</td></tr></table></div>		In Violation	Checked	2	3								
In Violation	Checked														
2	3														

<div><div>2. Primary: 395.8(a)(1)</div><div>Failing to require a driver to prepare a record of duty status using the appropriate method.</div><div><div>C</div><div><div>Critical</div><div>At least 10% of the number checked had violations</div></div></div></div>	<div><div>Violations Discovered</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>3</td><td>3</td></tr></table><div>Checked</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>3</td><td>3</td></tr></table></div>	Fed	State	Total		3	3	Fed	State	Total		3	3	<div><div>BASIC Impacted</div><div>Hours-of-Service Compliance</div></div>	<div><div>Rating Factor 3:</div><div>Operational = Part 395</div></div>
Fed	State	Total													
	3	3													
Fed	State	Total													
	3	3													
<div><div>Example/Notes:</div><div>Date: 4/9/2021</div><div>Driver name: Terry Sowers</div></div>		<div><div>Drivers/Vehicles</div><table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>3</td><td>3</td></tr></table></div>		In Violation	Checked	3	3								
In Violation	Checked														
3	3														

<div><div>3. Primary: 396.3(b)</div><div>Failing to keep minimum records of inspection and vehicle maintenance.</div></div>	<div><div>Violations Discovered</div><table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>5</td><td>5</td></tr></table></div>	Fed	State	Total		5	5	<div><div>BASIC Impacted</div><div>Vehicle Maintenance</div></div>	<div><div>Rating Factor 4:</div><div>Vehicle = Part 396</div></div>
Fed	State	Total							
	5	5							



Critical

At least 10% of the number checked had violations

Checked

Fed	State	Total
	5	5

Example/Notes:

Company number OR Vehicle license number: Units 1, 2, 3, 4, 5.
Trip date.; 3/3/2021 from Wichita, Ks. to New Cambria, Ks.

Drivers/Vehicles

In Violation	Checked
5	5

4. Primary: 392.2

State Equivalent: 8-2,125

Operating a Commercial Motor vehicle without having a CDL A license.

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	3	3

Example/Notes:

Trip Date: 4-29-2021
Driver - Dale McVay
Violation: Operating a Commercial Motor vehicle without having a CDL A license.

Drivers/Vehicles

In Violation	Checked
1	3

5. Primary: 392.2

State Equivalent: 8-142(1)

To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year,

Violations Discovered

Fed	State	Total
	5	5

Checked

Fed	State	Total
	5	5

Example/Notes:

Trip Date: 4/9/2021
Driver: Terry Sowers

Drivers/Vehicles

In Violation	Checked
5	5

6. Primary: 382.301(a)

Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.

Example/Notes:

Driver name, Dale McVay

Trip date, 3/3/2021

Pre employment test date: 4/20/2021

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
3		3

Drivers/Vehicles

In Violation	Checked
1	3

7. Primary: 382.305(i)(2)

Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.

Example/Notes:

Driver name Dale McVay

Selection date; 1st quarter of 2021.

Trip date: 3-3-2021 from Wichita, Ks. to New Cambria, Ks.

Violations Discovered

Fed	State	Total
3		3

Checked

Fed	State	Total
3		3

Drivers/Vehicles

In Violation	Checked
3	3

8. Primary: 391.51(b)(4)

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

Example/Notes:

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	3	3

Drivers/Vehicles

In Violation	Checked

Driver name, Terry Sowers Trip date.: 4/9/2021 Description of violation: Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).	<table border="1"> <tr> <td>1</td> <td>3</td> </tr> </table>	1	3
1	3		

9. Primary: 391.51(b)(5) Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).	Violations Discovered <table border="1"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>1</td> <td>1</td> </tr> </table> Checked <table border="1"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>3</td> <td>3</td> </tr> </table>	Fed	State	Total		1	1	Fed	State	Total		3	3
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Fed	State	Total											
	3	3											
Example/Notes: Driver name, Terry Sowers Trip date. 4/9/2021 Discription of violation: Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).	Drivers/Vehicles <table border="1"> <tr> <th>In Violation</th> <th>Checked</th> </tr> <tr> <td>1</td> <td>3</td> </tr> </table>	In Violation	Checked	1	3								
In Violation	Checked												
1	3												

10. Primary: 391.51(b)(6) Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.	Violations Discovered <table border="1"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>1</td> <td>1</td> </tr> </table> Checked <table border="1"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>3</td> <td>3</td> </tr> </table>	Fed	State	Total		1	1	Fed	State	Total		3	3
Fed	State	Total											
	1	1											
Fed	State	Total											
	3	3											
Example/Notes: Driver name, Terry Sowers Trip date.: 4/9/2021 Discription of violation: Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.	Drivers/Vehicles <table border="1"> <tr> <th>In Violation</th> <th>Checked</th> </tr> <tr> <td>1</td> <td>3</td> </tr> </table>	In Violation	Checked	1	3								
In Violation	Checked												
1	3												

11. Primary: 392.2 State Equivalent: 66-1,112 Operating in Intrastate Commerce without having Kansas Operating Authority.	Violations Discovered <table border="1"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>1</td> <td>1</td> </tr> </table> Checked	Fed	State	Total		1	1
Fed	State	Total					
	1	1					

	<table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table>	Fed	State	Total		1	1
Fed	State	Total					
	1	1					
Example/Notes: Trip on 4-9-2021, invoice # 4816 showing a trip driven by Terry Sowers to 2929 N Ohio, Wichita, Ks. 67219.	Drivers/Vehicles <table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>1</td><td>1</td></tr></table>	In Violation	Checked	1	1		
In Violation	Checked						
1	1						

Safety Fitness Rating

This Investigation is Not Rated

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Hours-of-Service Compliance Process Breakdown: Policies and Procedures

The company failed to provide any hours of service documents.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
2. Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
3. Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
4. Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
5. Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip.
6. Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies. A progressive disciplinary policy could include, among other things, written warnings, suspensions, or work restrictions, monetary penalties, and termination. This policy should also specify consequences for any carrier official who knowingly and willfully allows Hours-of-Service (HOS) violations.

BASIC: Vehicle Maintenance Process Breakdown: Policies and Procedures

The company did not submit any maintenance records after being requested to do so several times.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
2. Establish a policy requiring all drivers to submit copies of all roadside inspections to carrier management within 24 hours.
3. Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported, repaired, and certified before the vehicle is operated.
4. Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels, such as driver call-in and e-mail from mechanics.
5. 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 vehicle maintenance violations.

6. 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 cargo-securement violations.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Monitoring and Tracking

The company needs to develop policy to ensure compliance of keeping drivers in the consortium and notifying the consortium when drivers are hired or fired.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Monitor and adjust the testing program to ensure proper annual driver sampling.
2. 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 controlled substances and alcohol. 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.
3. Ensure that all test records are monitored for adherence to retention dates and nondisclosure requirements.
4. Implement a system for keeping accurate records of controlled-substance and alcohol completed training needs and completed training, via software, checklist in the driver's file, and/or another appropriate method.
5. Implement an effective process for monitoring and tracking drivers' removal from safety-sensitive functions and their return to duty according to controlled-substance and alcohol regulations and related company policies and procedures.
6. Provide adequate oversight of all personnel hiring and training processes, including qualification of service agents, to ensure adherence to controlled-substance and alcohol regulations and company policies and procedures.
7. Maintain the following documents to help evaluate the performance of all staff (drivers and managers) involved in controlled-substance and alcohol testing and the effectiveness of the policies and procedures: Motor Vehicle Record (MVR); records related to testing, the designated employer representative (DER), return to duty, and dispatch; lists of drivers removed due to a history of controlled-substance and/or alcohol misuse and those disqualified for personal driving under the influence (DUI); substance-abuse professional (SAP) letters; and for each test type, include selection criteria, the eligibility-pool list, and the statistical laboratory summary.
8. Regularly evaluate the company's controlled-substance and alcohol-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with controlled-substance and alcohol regulations and company policies.
9. When monitoring and tracking issues regarding controlled substances and alcohol use, always assess whether they are individual or represent a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

BASIC: Driver Fitness

Process Breakdown: Policies and Procedures

The company needs to develop policy to ensure that regulations are followed pertaining to driver qualification files.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Policies and Procedures:

1. 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 can schedule another physical examination in advance, and to prevent falsification of documents related to driver qualification.
2. 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.
3. 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.
4. 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.

Recommendations

1. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. **For all Investigations not Unsat.**

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 carriers 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 or email the letter along with copies of your supporting evidence to:
Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027
g.davenport@kcc.ks.gov

3. **Obtain copies of the regulations, forms, interpretations, manuals.**

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

4. **A copy of your profile can be obtained by accessing the Portal.**

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

5. **Conduct periodic internal reviews. (non-HM)**

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.

6. **Employers are responsible for the compliance of 49 CFR Part 40.**

Employers are responsible for their officers', employees', agents', consortia, and/or contractors' compliance with the requirements of 49 CFR Parts 40 and 382.

7. **CDL and drug testing rules apply.**

Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.

8. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

9. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

10. **Maintain all required controlled substance testing records.**

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. **Require drivers to prepare complete and accurate records.**

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.

12. **Duty status records must be kept on file for 6 months.**

Ensure that all documents supporting records of duty status (such as toll, fuel repair and other on-the-road expense receipts, as well as invoices, bills of lading, dispatch records, etc.) are kept on file for at least 6 months.

13. **Obtain new driver's on-duty-time for past 7 days.**

Obtain from any driver used for the first time (or intermittently) a signed statement showing the total time on-duty during the preceding seven (7) days and the time at which the driver was last relieved from duty.

14. **Retain supporting documents for 6 months.**

Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.

15. **150-mile exemption terms must be met.**

If you want some drivers to use the 150 air-mile radius exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 14 hours from when they report for duty. Logs must be prepared if a driver does not meet the 14 hour requirement.

16. **Ensure that all drivers' logs are accurate.**

Ensure that all drivers' records of duty status (logs) are accurate. Check them against "supporting documents" to verify accuracy. Prohibit falsification of logs by any driver. Review the rules on supporting documents. Take appropriate action against drivers who falsify logs.

17. **Review maintenance and inspection records for all lease vehicles.**

Periodically review the maintenance and inspection records for all lease vehicles as required by Part 396 of the FMCSR. Keep a

record to document these reviews and notify the vehicle owner of any violations detected.

18. Ensure that inspections are done at proper intervals.

Ensure that the persons or entities that perform preventative maintenance inspections on your equipment are abiding by agreed time or mileage intervals. Ensure that records are kept of such periodic preventative maintenance inspections. Take corrective action, if schedules are not being adhered to.

19. Review with drivers procedure for pre and post trip inspections.

Review with your drivers periodically the procedures for doing pre-trip and post-trip inspections. Ensure that safety defects reported by drivers on their Vehicle Inspection Reports (VIR) are repaired before the vehicle is re-dispatched. Require drivers to prepare Vehicle Inspection Reports on a daily basis. Keep them on file for 90 days.

20. Driver drug tests required.

Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.

21. Drug and Alcohol Testing Company Policy (Educational Materials)

Provide employees with a written controlled substance and alcohol testing policy that complies with all the requirements noted in Part 382.601(b). Also, ensure you maintain a certificate signed by the employee certifying they have received your company drug and alcohol testing policy.

22. Part 40 Violations

Ensure that your drug and alcohol testing program conforms with all applicable parts of Part 40.

23. Alcohol Testing

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.

24. Reasonable Suspicion Training

Provide new-hire and refresher training, to all managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a substance-abuse professional (SAP); and confidentiality requirements in relation to recordkeeping.

25. New Hires

Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

26. North American Standard Inspection Level I Process

For an overview of the complete North American Standard Inspection Level I process, you can obtain a brochure or view a video at <https://www.fmcsa.dot.gov/international-programs>.

27. DQ File Required

Each motor carrier shall maintain a driver qualification (DQ) file for each driver it employs. A driver's qualification file may be combined with his/her personnel file. The DQ file must include: driver's application for employment completed in accordance with 391.21; a copy of the motor vehicle record received from each State within 30 days of the hire date pursuant to 391.23(a)(1); certificate of the driver's road test issued to the driver [391.31(e)] or a copy of the CDL license [391.33]; copy of the annual motor vehicle record received from each State agency [391.25(a)]; note relating to the annual review of the driver's driving record [391.25(c)(2)]; list or certificate relating to violations of motor vehicle laws and ordinances of the annual review of the driver's driving record [391.27]; copy of the medical examiner's certificate [391.43(g)]; a note relating to the verification of medical examiner listing on the National Registry of Certified Medical Examiners [391.23(m)]; and a Skill Performance Evaluation Certificate if applicable [391.49].

28. DQ retained 3 yrs after termination

Per 391.51(c), Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for three years thereafter.

29. Drug-Testing Equal Opportunity

CDL Drivers operating vehicles which meet the definition of a CDL commercial motor vehicle (CMV) SHALL have an equal chance of being tested each time selections are made. These drivers shall be in a pool of CDL drivers. Non-CDL drivers cannot be allowed in the same pool as the CDL drivers as the non-CDL drivers will take the opportunity for a random selection away from the CDL driver resulting in the CDL driver not having an equal chance of being tested each time selections are made.

30. MC verify Nal Registry

As per 391.51(b)(9), The qualification file must include a note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by 391.23(m).

31. The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier Dependable Pallet Inc Date 7/30/21

I acknowledge that these requirements/violations 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 Dependable Pallet Inc. vehicles operating authority and/or the impoundment of Dependable Pallet Inc. vehicles.

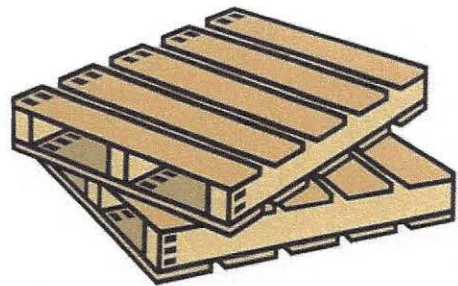
Signed Jamantha Hillman Date 7/30/21

I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty schedule can be found at kcc.ks.gov. Select Transportation, then Safety Information, and then the link available under Uniform Penalty Assessment Table.

Jamantha Hillman Dependable Pallet Inc.
Carrier Name Carrier Official

ATTACHMENT “B”

Dependable Pallet Inc
1634 S Mead
Wichita, KS 67211 US
[REDACTED]



Packing Slip

BILL TO

Mr. Roy Ewing
Hormel Food Corp.
[REDACTED]

SHIP TO

Mr. Roy Ewing
Hormel Food Corp.
[REDACTED]

INVOICE # 4902**DATE** 04/29/2021

TR # 7060
Dak H/ys

PO # 4215711

SERVICE

48x40 #1

DESCRIPTION

48x40 #1

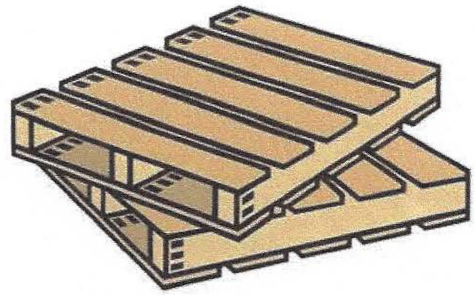
QTY

440

4/29 AS

ATTACHMENT “C”

Dependable Pallet Inc
1634 S Mead
Wichita, KS 67211 US



Packing Slip

BILL TO

Mr. Roy Ewing
Hormel Food Corp.

SHIP TO

Mr. Roy Ewing
Hormel Food Corp.

INVOICE # 4816**DATE** 04/09/2021

P.O. NUMBER
4203973

*Trailer 7234
Delivered By Terry*

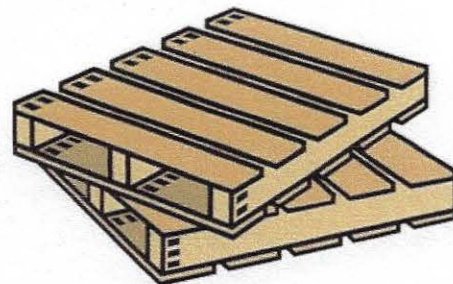
SERVICE	DESCRIPTION	QTY
48x40 #1	48x40 #1 Food Grade	440

Y / 9 AR

ATTACHMENT “D”

Dependable Pallet Inc.
1634 S Mead
Wichita, KS 67211 US

Invoice

**BILL TO**

AgVanced Enterprises
[Redacted]

SHIP TO

AgVanced Enterprises
AgVanced Enterprises
[Redacted]

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
4610	03/03/2021	\$2,405.00	04/01/2021	Due on receipt	

TR# 787

Dale H. Vey

SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
42x42	42x42	300	6.50	1,950.00
48x40 4-Way #1	48x40 4-Way #1	40	7.00	280.00
delivery fee	delivery fee	1	175.00	175.00

BALANCE DUE

\$2,405.00

[Signature]

ATTACHMENT “E”



"WE LIVE ONSITE"

ProMed Physician Services, P.A.
753 N West St
Wichita, KS 67203
Phone (316) 648-3818
Fax: (316) 685-0736

NEGATIVE RESULT

<u>Company Information</u> Name: Dependable Pallet, Inc. Address 1634 S Mead Contact: Samantha Stillman Location Code: 1681 ContactMethod: Email	<u>Tests:</u> Negative Amphetamines Negative Methamphetamine Negative MDMA Negative Cocaine Negative Marijuana Negative PCP Negative 6-Acetyl Morphine Negative Opioids Negative Morphine Negative Codeine Negative Hydrocodone Negative Hydromorphone Negative Oxycodone Negative Oxymorphone
<u>Donor Information</u> Name: Dale McVey SSN/ID: xxx-xx- CDL# Spec#:	<u>CollectorRemarks regarding specimen/donor:</u> <u>MRO Remarks regarding collection/donor:</u>
<u>Test Information</u> Test Reason: Pre-Employment Mode: FMCSA Date of Collection: 4/19/2021 Recv'd CCF: 4/19/2021 MRO Verified/Sent: 4/20/2021 SpecimenType: Urine Lab: CRL	
<u>Collection Site Information</u> Collector: Tearsa Thornburg Clinic: Kelly Compliance Phone:	

☐ A.J. Reed, M.D.

☒ L.K. Wilkinson, M.D.

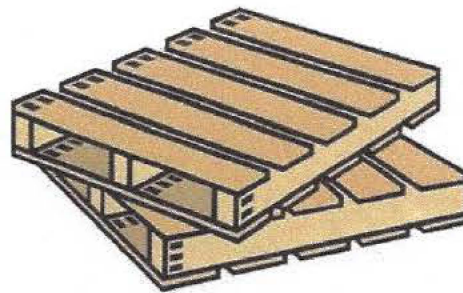
This controlled substance test result has been received by a certified Medical Review Officer and is hereby released to the above named employer in accordance with CFR part 40. Please return this document in a confidential manner.

Confidentially and Unauthorized Use Statement

This document and any files transmitted with it are confidential and intended solely for the assigned designated employer representative and/or drug program administrator to whom this is addressed. If you are not the named addressee you should not disseminate, distribute, or copy this report. Any use or dissemination of this report, or the data contained within, outside of its intended purpose by anyone is strictly prohibited. Any modification of this report by anyone is strictly prohibited. Any issues arising from the unauthorized use, distribution, or modification of this report will become the sole responsibility and liability of the entity responsible for the unauthorized actions. If you have received this document in error, please notify us by phone immediately at (316) 648-3818.

ATTACHMENT “F”

Dependable Pallet Inc
1634 S Mead
Wichita, KS 67211 US
[REDACTED]



Packing Slip

BILL TO

Mr. Roy Ewing
Hormel Food Corp.
[REDACTED]

SHIP TO

Mr. Roy Ewing
Hormel Food Corp.
[REDACTED]

INVOICE # 4816**DATE 04/09/2021****P.O. NUMBER**

4203973

*Trailer 7234
Delivered By Terry*

SERVICE	DESCRIPTION	QTY
48x40 #1	48x40 #1 Food Grade	440

Y / 9 AR

ATTACHMENT “G”

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

FROM: Mike Hoeme, Director of Transportation
Gary Davenport, Deputy Director of Transportation

DATE: August 4, 2021

SUBJECT: Docket No. 22-TRAM-069-PEN
In the Matter of the Investigation of Dependable Pallet Inc of Wichita, Kansas
Regarding the Violation of the Motor Carrier Rules and Regulations and the
Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of
Motor Carrier Authority.

EXECUTIVE SUMMARY:

Dependable Pallet Inc (Dependable Pallet or Carrier) is a motor carrier possessing private operating authority from the Commission, primarily hauling pallets. Dependable Pallet operates under USDOT 1549823. On July 30, 2021 Commission Staff Special Investigator Gregory Askren conducted a safety compliance review of the operations of Dependable Pallet. As a result of this investigation, the special investigator identified nine (9) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$4,650.

DISCUSSION AND ANALYSIS:

On July 30, 2021, Commission Staff Special Investigator Gregory Askren conducted a safety compliance review of the operations of Dependable Pallet. As a result of this investigation, the special investigator identified nine (9) violation(s) of the Motor Carrier Safety Regulations.

Violation One (1 of 9)

On April 29, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #7060, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated April 29, 2021.. At the time of this transportation, Dependable Pallet failed to maintain a driver qualification file on its driver, containing the documents required by regulation. The Special Investigators discovered two (2) violations of this type. The Carrier's failure to maintain a driver qualification file is a violation of

49 C.F.R. 391.51(a), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Two (2 of 9)

On April 9, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #7060, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated April 9, 2021. At the time of this transportation, the Carrier failed to require its driver to keep record of duty status. The Special Investigators found three (3) violations of this type. The Carrier's failure to require the driver to prepare a record of duty is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

Violation Three (3 of 9)

During the transportation described in Violation Two, above, Dependable Pallet failed to maintain minimum records of inspection and maintenance on the commercial motor vehicle operated. The Special Investigators found five (5) violations of this type. The Carrier's failure to maintain the required records of vehicle inspection, maintenance, and repair on the commercial motor vehicles owned for 30 days is in violation of 49 C.F.R. 396.3(b), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Four (4 of 9)

During the transportation described in Violation One, above, Dependable Pallet allowed the driver to operate a commercial motor vehicle without having a CDL Class A license. The Carrier's failure to ensure the driver had a CDL Class A license before operating a motor commercial motor vehicle is in violation of 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, enforcing K.S.A. 8-2,125, et. seq., and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.

Violation Five (5 of 9)

On March 3, 2021, Dependable Pallet required or permitted its driver, Dale McVay, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #787, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip, dated March 3, 2021. At the time of this transportation, Dependable Pallet failed to conduct a pre-employment alcohol and controlled substance test with a negative result prior to allowing driver, McVay, to operate a commercial motor vehicle. This is evidenced by a Negative Result Test dated April 19, 2021. The Carrier's failure to require its driver to submit to a pre-employment alcohol and/or controlled substances USDOT regulated test and to obtain a negative test result within 30 days of him/her employment and prior to requiring or permitting him/her to operate a commercial motor vehicle is a violation of 49 C.F.R. 382.301(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$650.

Violation Six (6 of 9)

During the transportation described in Violation Five above, Dependable Pallet failed to have its driver, McVay, in the alcohol and controlled substance random testing pool, failing to ensure that each of its CDL drivers have an equal chance at being selected. The Special

Investigators found three (3) violations of this type. The Carrier's failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are made is in violation of 49 C.F.R. 382.305(i)(2), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$650.

Violation Seven (7 of 9)

On April 9, 2021, Dependable Pallet required or permitted its driver, Terry Sowers, to operate a CDL-required commercial motor vehicle, a 2004 International, VIN ending in 092186, GVWR 52,000 lbs., pulling a trailer #7234, in intrastate commerce in and around the city of Wichita, Kansas. This trip is evidenced by a Packing Slip #4816, dated April 9, 2021. At the time of this transportation, Dependable Pallet failed to maintain the responses of each state agency to the annual driver record inquiry required by 49 C.F.R.391.25(a). The Carrier's failure to maintain the required responses to the annual driver record inquiry is in violation of 49 C.F.R. 391.51(b)(4), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1, 129. Staff recommends a fine of \$100.

Violation Eight (8 of 9)

During the transportation described in Violation Seven, above, Dependable Pallet operated in intrastate commerce without having Kansas Operating Authority. The Carrier's failure to have Kansas Operating Authority and continue operate is in violation of K.S.A. 66-1,112g and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.

Violation Nine (9 of 9)

During the transportation described in Violation Seven, above, Dependable Pallet permitted the operation of a vehicle that was not registered. The Special Investigators found five (5) violations of this type. The Carrier's failure to obtain a commercial registration for its commercial motor vehicle is a violation of K.S.A. 8-142(1) and 49 C.F.R. 392.2, adopted by K.A.R. 82-4-3h, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.

RECOMMENDATION:

Transportation Staff recommends the Commission find Dependable Pallet committed nine (9) 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.

Additionally, Staff recommends a civil penalty of \$4,650 for nine (9) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from Dependable Pallet be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the 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.

Staff further recommends Dependable Pallet submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Dependable Pallet submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

CERTIFICATE OF SERVICE

22-TRAM-069-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 and electronic service on 08/12/2021.

AHSAN LATIF, LITIGATION COUNSEL
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/S/ DeeAnn Shupe

DeeAnn Shupe