

STATE OF KANSAS



CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027

PHONE: 785-271-3100
FAX: 785-271-3354
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

NOTICE OF PENALTY ASSESSMENT

October 16, 2018

19-TRAM-136-PEN

John B. File, Owner
d/b/a JB File
508 Highland Ave
Beloit, KS 67420

This is a notice of a penalty assessment against John B. File, d/b/a JB File (JB File) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 28, 2018, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalty amounts are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

JB File has been assessed a \$900 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$900 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.

JB FILE IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed may be available if:

- (1) within fifteen (15) days from the date of this Penalty Order, the carrier signs and submits the attached Reduced Penalty Agreement to Litigation Counsel at the above address;
- (2) within thirty (30) days from the date of this Penalty Order, the carrier submits to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) described in the attached 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;
- (3) within thirty (30) days from the date of this Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter; and
- (4) within eighteen (18) months from the date of this Penalty Order, the carrier must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for a fifty-percent (50%) reduced penalty, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above may be issued by the Commission. Payment of the reduced penalty of \$450 would be due within 30 days from the date of service of the Order Amending Penalty Assessment.

IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. John B. File, d/b/a JB File 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 Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$900 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If JB File submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$450 and that payment would become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,



Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

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REDUCED PENALTY AGREEMENT

19-TRAM-136-PEN

John B. File, d/b/a JB File (JB File) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated October 16, 2018. JB File has agreed to comply with the following terms and obligations:

1. JB File has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. JB File will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. JB File will, within thirty (30) days from the date of the Penalty Order, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.
4. JB File will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

John B. File, d/b/a JB File understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$450, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, JB File will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this _____ day of _____, 2018.

John B. File, d/b/a JB File

John B. File
Owner

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

2. Pursuant to K.S.A. 2017 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

II. BACKGROUND

4. John B. File, d/b/a JB File (JB File) has private and common operating authority with the Commission and further operates under USDOT number 2927981.

5. John B. File attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on October 17, 2016, on behalf of JB File.

6. JB File is a private and common motor carrier which primarily hauls livestock, grain, feed and hay.

7. JB File is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on August 28, 2018, Commission Staff (Staff) Special Investigator Gregory Askren conducted a compliance review of the operations of JB File. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On July 13, 2018, JB File required or permitted its driver, Adam File, to operate a CDL-required commercial motor vehicle, a 2007 Kenworth, VIN ending in 205083, GVWR 50,000 lbs., pulling a 2012 TIMP trailer, VIN ending in 135554, GVWR 68,000 lbs., in intrastate commerce in and

around the area of Beloit, Kansas. This trip is evidenced by Scale Ticket 1150 and 1156, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, JB File did not have implemented an alcohol and controlled substance testing program for its CDL drivers. The carrier’s failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$650.

- b. During the transportation described in paragraph a., above, JB File failed to maintain a copy of its CDL drivers’ motor vehicle record in the driver qualification files. The special investigator discovered two (2) violations of this type. The carrier’s failure to maintain a copy of the motor vehicle record received from each State in the driver qualification file is a violation of 49 C.F.R. 391.51(b)(4), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

- 9. Based upon the available facts, Staff recommends the Commission find JB File committed two (2) 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. Staff recommends a civil penalty of \$900 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that John B. File, d/b/a JB File is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends John B. File, d/b/a JB File submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this 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. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that a representative from JB File attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

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

V. CONCLUSIONS OF LAW

15. The Commission finds it has jurisdiction over JB File because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

16. The Commission finds a penalty of \$900 should be assessed to JB File for committing two (2) 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.

17. The Commission finds JB File is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. John B. File, d/b/a JB File, of Beloit, KS is hereby assessed a penalty of \$900 for two (2) 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. Payment of \$900 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 owed.

B. A representative from JB File is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. 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.

C. JB File must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described above, 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.

D. JB File 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 motor carrier at a later date to determine an appropriate time for this review.

E. If JB File does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$900 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of JB File's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. **Pursuant to K.S.A. 2017 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, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only

upon written request. Failure to timely request a hearing will result in a waiver of JB File's right to a hearing.

G. 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. 2017 Supp. 66-1,142b(e) and amendments thereto.

H. 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.

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner








Dated: 10/16/2018




Lynn M. Retz
Secretary to the Commission


AAL

ATTACHMENT “A”

	US DOT # 2927981	Legal: JB FILE 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 Interstate Intrastate		
Carrier: N/A	Non-HM	Business: Corporation
Shipper: N/A	N/A	Gross Revenue:  for year ending: 12/31/2018
Cargo Tank: N/A		
Company Physical Address:		
 BELOIT, KS 67420-1810		
Contact Name:	JB File	
Phone numbers: (1) 	Fax	
E-Mail Address:		
Company Mailing Address:		
 BELOIT, KS 67420-1810		
Carrier Classification		
Authorized for Hire	Private Property	
Cargo Classification		
Livestock	Grain, Feed, Hay	
Equipment		
	Owned	Term Leased Trip Leased
Truck Tractor	1	0 0
Trailer	1	0 0
Power units used in the U.S.:1		
Percentage of time used in the U.S.:100		
Does carrier transport placardable quantities of HM? No		
Is an HM Permit required? N/A		
Driver Information		
	Inter	Intra
< 100 Miles:		
>= 100 Miles:	2	
Average trip leased drivers/month: 0		
Total Drivers: 2		
CDL Drivers: 2		



	JB FILE U.S. DOT #: 2927981	Review Date: 08/28/2018
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.		
<u>Person(s) Interviewed</u>		
Name: John B File		Title: Owner
Name: [REDACTED]		

	JB FILE U.S. DOT #: 2927981	Review Date: 08/28/2018
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Part B Violations

1 FEDERAL	Primary: 382.115(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description



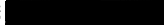

Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.

Example

Driver - Adam File

DOB - 

OLN - 

Trip Date - 7-13-2018 driving a 2007 KW, Vin #  205083, Ks. Reg.  GVWR 54000 pulling a 2012 Timp, Vin #  135554, Ks. Reg.  GVWR 68000.

As documented by the pay stub from Scoular Grain Co.

JB File failed to implement an alcohol and/or controlled substance testing program on the date the employer begins commercial motor vehicle operations.

2 STATE	Primary: 391.23(a) CFR Equivalent: 391.23(a)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
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Description





Failing to investigate driver's background.

Example

Driver - Adam File

DOB - 

OLN - 

Trip Date - 7-13-2018 driving a 2007 KW, Vin #  205083, Ks. Reg.  GVWR 54000 pulling a 2012 Timp, Vin #  135554, Ks. Reg.  GVWR 68000.

As documented by the pay stub from Scoular Grain Co.

JB File failed to check with previous employer about background history.

3 STATE	Primary: 391.51(b)(4) CFR Equivalent: 391.51(b)(4)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
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Description





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

Example

Driver - Adam File

DOB - 


OLN - 

Trip Date - 7-13-2018 driving a 2007 KW, Vin #  205083, Ks. Reg.  GVWR 54000 pulling a 2012 Timp, Vin #  135554, Ks. Reg.  GVWR 68000.

As documented by the pay stub from Scoular Grain Co.

JB File failed to check the driving record of the drivers annual driver record inquiry required by 391.25(a).



	JB FILE	Review Date:
	U.S. DOT # 2927981	08/28/2018

Part B Violations

4 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
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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 - Adam File

DOB - [REDACTED]

OLN - [REDACTED]

Trip Date - 7-13-2018 driving a 2007 KW, Vin # [REDACTED] 205083, Ks. Reg. [REDACTED] GVWR 54000 pulling a 2012 Timp,

Vin # [REDACTED] 135554, Ks. Reg. [REDACTED] GVWR 68000.

As documented by the pay stub from Scoular Grain Co.

JB File failed to maintain a note relating to the annual review of the drivers driving record as required by 391.25(c)(2).

5 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
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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 - Adam File

DOB - [REDACTED]

OLN - [REDACTED]

Trip Date - 7-13-2018 driving a 2007 KW, Vin # [REDACTED] 205083, Ks. Reg. [REDACTED] GVWR 54000 pulling a 2012 Timp,

Vin # [REDACTED] 135554, Ks. Reg. [REDACTED] GVWR 68000.

As documented by the pay stub from Scoular Grain Co.

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


Safety Fitness Rating Information:

Total Miles Operated 23,418
Recordable Accidents 0

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

Your proposed safety rating is :

This Review is not Rated.

	JB FILE	Review Date:
	U.S. DOT #: 2927981	08/28/2018
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 the letter along with copies of your supporting evidence to.

Kansas Corporation Commission
Attn: Gary Davenport



	JB FILE	Review Date:
	U.S. DOT # 2927981	08/28/2018
Part B Requirements and/or Recommendations		

1500 SW Arrowhead Rd
Topeka, KS 66604-4027

2. 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
3. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>)
4. Obtain a copy of each driver's driving record and review it annually.
5. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
6. Ensure that your drug and alcohol testing program conforms with all applicable parts of Part 40.
7. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN - JB File needs to develop a policy to review MVR's annually.

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 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

8. DRIVER FITNESS BASIC PROCESS BREAKDOWN. Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN - JB File failed to monitor the MVRs to ensure all forms and MVRs are completed annually.



	JB FILE	Review Date
	U.S. DOT #. 2927981	08/28/2018
Part B Requirements and/or Recommendations		

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- Regularly evaluate the company's driver fitness-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 driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources:

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

9. 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.
10. 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
11. 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 JB File operating authority and/or the impoundment of JB File vehicles.

Signed JB File

Date 8-28-18



ATTACHMENT “B”

**LIMESTONE FEEDERS L.L.C**

Beloit, Ks 67420

Date 7-13-18 ☐ IN ☐ OUT

1150

From Scoular Commodity Corn Bu/TonTo _____ Sample Taken ☐ Yes ☐ No92030 LB GROSS 09:16 13 JUL 18 #Head ☐ Heifer ☐ Steer

Lot # _____ Pen # _____ Remarks: _____

26110 LB TARE 10:03 13 JUL 18

65920

Driver Adam ☐ Driver On ☐ OffTruck _____ Weighed By ef

DATE PAID	BUS	DRIVER'S S.S. NUMBER
VOUCHER NO.	LOSS IN TRANSIT	LICENSE NUMBER
AMOUNT PAID \$		TRACTOR TRAILOR
SHIPPER'S SIGNATURE		MAKE MAKE
		DRIVER'S SIGNATURE <u>Adam</u>

NOTE TO SHIPPER: Please fill in all applicable information above and give this copy below to the truck driver and as him to deliver to Consignee. Be sure to show Loading Ticket Number. Check (✓) to show if Freight is Prepaid or Collect. If Prepaid show Date Paid, Voucher No. and Amount Paid. **THANK YOU**

174442

White Copy - Consignee

Yellow Copy - Scoular Return

Pink Copy - Shippers File

Goldenrod Copy - Scoular Office

**LIMESTONE FEEDERS L.L.C**

Beloit, Ks 67420

Date 7-13-18 ☐ IN ☐ OUT

1156

From _____ Commodity Corn Bu/TonTo Scoular Sample Taken ☐ Yes ☐ No59680 LB GROSS 12:13 13 JUL 18 #Head ☐ Heifer ☐ Steer

26050 LB TARE 12:41 13 JUL 18 Lot # _____ Pen # _____ Remarks: _____

33630

Driver Adam ☐ Driver On ☐ OffTruck _____ Weighed By ef

DATE PAID	NET	DRIVER'S LICENSE NO.	STATE
VOUCHER NO.	BUS	DRIVER'S S.S. NUMBER	
AMOUNT PAID \$	LOSS IN TRANSIT	LICENSE NUMBER	TRACTOR TRAILOR
SHIPPER'S SIGNATURE		MAKE MAKE	
		DRIVER'S SIGNATURE <u>Adam</u>	

NOTE TO SHIPPER: Please fill in all applicable information above and give this copy below to the truck driver and as him to deliver to Consignee. Be sure to show Loading Ticket Number. Check (✓) to show if Freight is Prepaid or Collect. If Prepaid show Date Paid, Voucher No. and Amount Paid. **THANK YOU**

174444

White Copy - Consignee

Yellow Copy - Scoular Return

Pink Copy - Shippers File

CERTIFICATE OF SERVICE

19-TRAM-136-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 10/17/2018.

JOHN B. FILE, OWNER
JOHN B. FILE
D/B/A JB FILE
508 HIGHLAND AVE
BELOIT, KS 67420-1810
adam_file@yahoo.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