

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

January 10, 2019

19-TRAM-261-PEN

Larry Spikes, Managing Member  
Derby Steel Technologies, LLC  
PO Box 610  
Derby, KS 67037

This is a notice of a penalty assessment against Derby Steel Technologies, LLC (Derby Steel Technologies) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 27-28, 2018, by Kansas Corporation Commission Special Investigator Gary Goeller. 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:**

Derby Steel Technologies has been assessed a \$350 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 \$350 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.

**DERBY STEEL TECHNOLOGIES IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS SET OUT IN THE ATTACHED REDUCED PENALTY AGREEMENT.**

To become eligible, you must agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. The Reduced Penalty Agreement must be submitted to the Litigation Division within 15 days.

**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. Derby Steel Technologies, LLC 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. 2018 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 \$350 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.

Respectfully,



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

# STATE OF KANSAS



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

PHONE: 785-271-3100  
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GOVERNOR JEFF COLYER, M.D.

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

## **REDUCED PENALTY AGREEMENT**

### **19-TRAM-261-PEN**

Derby Steel Technologies, LLC (Derby Steel Technologies) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated January 10, 2019. Derby Steel Technologies has agreed to comply with the following terms and obligations:

1. Derby Steel Technologies has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Derby Steel Technologies 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. Derby Steel Technologies 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. Derby Steel Technologies 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.

Derby Steel Technologies, LLC understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$175, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Derby Steel Technologies will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

Derby Steel Technologies, LLC

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Larry Spikes  
Managing Member

(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](mailto:v.jacobsen@kcc.ks.gov) and [alatif@kcc.ks.gov](mailto:alatif@kcc.ks.gov).)

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

Before Commissioners:      Shari Feist Albrecht, Chair  
                                         Jay Scott Emler  
                                         Dwight D. Keen

In the Matter of the Investigation of **Derby Steel**      )  
**Technologies, LLC, of Derby, KS**, Regarding      )  
the Violation of the Motor Carrier Safety      )  
Statutes, Rules and Regulations and the      ) Docket No. 19-TRAM-261-PEN  
Commission's Authority to Impose Penalties,      )  
Sanctions and/or the Revocation of Motor      )  
Carrier Authority.      )

**PENALTY ORDER**

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

**I. JURISDICTION**

1. Pursuant to K.S.A. 2018 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2018 Supp. 66-1,108, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

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

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and 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. Derby Steel Technologies, LLC (Derby Steel Technologies) has private operating authority with the Commission and further operates under USDOT number 2071214.

5. Barney Johns attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on July 18, 2016, on behalf of Derby Steel Technologies.

6. Derby Steel Technologies is a private motor carrier which primarily hauls metal, sheets, coils, rolls, building materials and construction supplies.

7. Derby Steel Technologies 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 November 27-28, 2018, Commission Staff (Staff) Special Investigator Gary Goeller conducted a compliance review of the operations of Derby Steel Technologies. 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 November 24, 2018, Derby Steel Technologies required or permitted its driver, Richard J. Stilley, to operate a commercial motor vehicle, a 2015 Ford, VIN ending in 53258, GVWR 14,000 lbs., in interstate

commerce from Park City, Kansas to Springfield, Missouri. This trip is evidenced by KCC Written Statement of Larry B. Spikes, dated November 28, 2018, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Derby Steel Technologies failed to obtain its driver’s motor vehicle record (MVR) within 30 days of employment. The carrier’s failure to obtain MVRs on its drivers within 30 days of employment and maintain the MVRs in the driver qualification files pursuant to 49 C.F.R. 391.51 is a violation of 49 C.F.R. 391.23(a)(1) and (b), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a, above, Derby Steel Technologies failure to require its driver to keep records of duty status for each 24-hour period using the method described in 49 C.F.R. 395.8(a) and to submit the original record to the motor carrier within 13 days of creation is in violation of 49 C.F.R. 395.8(a), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 2018 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 Derby Steel Technologies 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 \$350 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Derby Steel Technologies, LLC 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 Derby Steel Technologies, LLC 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 Derby Steel Technologies 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 Derby Steel Technologies 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 Derby Steel Technologies because it is a motor carrier as defined in K.S.A. 2018 Supp. 66-1,108.

16. The Commission finds a penalty of \$350 should be assessed to Derby Steel Technologies 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 Derby Steel Technologies 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. Derby Steel Technologies, LLC, of Derby, KS is hereby assessed a penalty of \$350 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 \$350 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 Derby Steel Technologies 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm).



C. Derby Steel Technologies 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. Derby Steel Technologies 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 Derby Steel Technologies does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$350 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 Derby Steel Technologies' 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. 2018 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, 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 Derby Steel Technologies' 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. 2018 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: 01/10/2019




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Lynn M. Retz  
Secretary to the Commission

AAL

## **ATTACHMENT “A”**

	<b>US DOT #</b> 2071214	<b>Legal:</b> DERBY STEEL TECHNOLOGIES LLC <b>Operating (DBA):</b>																		
<b>MC/MX #:</b>		<b>Federal Tax ID:</b> [REDACTED] (EIN)																		
<b>Review Type:</b> Compliance Review (CR)																				
<b>Scope:</b> Principal Office		<b>Location of Review/Audit:</b> Company facility in the U. S.		<b>Territory:</b> F																
<b>Operation Types</b> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 30%;"><b>Interstate</b></td> <td style="width: 30%;"><b>Intrastate</b></td> </tr> <tr> <td><b>Carrier:</b> Non-HM</td> <td><b>Non-HM</b></td> </tr> <tr> <td><b>Shipper:</b> N/A</td> <td><b>N/A</b></td> </tr> <tr> <td><b>Cargo Tank:</b> N/A</td> <td></td> </tr> </table>			<b>Interstate</b>	<b>Intrastate</b>	<b>Carrier:</b> Non-HM	<b>Non-HM</b>	<b>Shipper:</b> N/A	<b>N/A</b>	<b>Cargo Tank:</b> N/A		<b>Business:</b> Corporation <b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2017									
<b>Interstate</b>	<b>Intrastate</b>																			
<b>Carrier:</b> Non-HM	<b>Non-HM</b>																			
<b>Shipper:</b> N/A	<b>N/A</b>																			
<b>Cargo Tank:</b> N/A																				
<b>Company Physical Address:</b> [REDACTED] DERBY, KS 67037-1570  <b>Contact Name:</b> Larry Spikes <b>Phone numbers:</b> (1) [REDACTED] <b>Fax</b> <b>E-Mail Address:</b> [REDACTED]																				
<b>Company Mailing Address:</b> [REDACTED] DERBY, KS 67037-1570																				
<b>Carrier Classification</b> Private Property																				
<b>Cargo Classification</b> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 33%;">Metal: Sheets, Coils, Rolls</td> <td style="width: 33%;">Building Materials</td> <td style="width: 33%;">Construction</td> </tr> </table>					Metal: Sheets, Coils, Rolls	Building Materials	Construction													
Metal: Sheets, Coils, Rolls	Building Materials	Construction																		
<b>Equipment</b> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td>2</td> <td>0</td> <td>0</td> <td>Trailer</td> <td>2</td> <td>0</td> <td>0</td> </tr> </table>						Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	2	0	0	Trailer	2	0	0
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased													
Truck	2	0	0	Trailer	2	0	0													
<b>Power units used in the U.S.:</b> 2 <b>Percentage of time used in the U.S.:</b> 100																				
<b>Does carrier transport placardable quantities of HM?</b> No <b>Is an HM Permit required?</b> N/A																				
<b>Driver Information</b> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 30%;"></td> <td style="width: 10%;"><b>Inter</b></td> <td style="width: 10%;"><b>Intra</b></td> <td style="width: 50%;"></td> </tr> <tr> <td>&lt; 100 Miles:</td> <td>1</td> <td></td> <td><b>Average trip leased drivers/month:</b> 0</td> </tr> <tr> <td>&gt;= 100 Miles:</td> <td></td> <td></td> <td><b>Total Drivers:</b> 1</td> </tr> <tr> <td></td> <td></td> <td></td> <td><b>CDL Drivers:</b> 1</td> </tr> </table>						<b>Inter</b>	<b>Intra</b>		< 100 Miles:	1		<b>Average trip leased drivers/month:</b> 0	>= 100 Miles:			<b>Total Drivers:</b> 1				<b>CDL Drivers:</b> 1
	<b>Inter</b>	<b>Intra</b>																		
< 100 Miles:	1		<b>Average trip leased drivers/month:</b> 0																	
>= 100 Miles:			<b>Total Drivers:</b> 1																	
			<b>CDL Drivers:</b> 1																	



DERBY STEEL TECHNOLOGIES LLC  
U.S. DOT #: 2071214

Review Date:  
11/28/2018

### 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.

Person(s) Interviewed

Name: Larry Spikes

Title: President

Name: [REDACTED]

Title: Accounts Manager





DERBY STEEL TECHNOLOGIES LLC  
U.S. DOT #: 2071214

Review Date:  
11/28/2018

### Part B Violations

1 FEDERAL	Primary: 391.21(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Using a driver who has not completed and furnished an employment application. <b>Example</b> Richard J Stilley Trip date 11.24.2018  Carrier misplaced driver application  Operated a 2015 Ford KS VIN# [REDACTED] 53258, KS tag# [REDACTED], gvwr 14,000 on a trip from Parkcity, KS to Springfield, MO					
2 FEDERAL	Primary: 391.23(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> (b) A copy of the motor vehicle record(s) obtained in response to the inquiry or inquiries to each State required by paragraph (a)(1) of this section must be placed in the driver qualification file within 30 days of the date the driver's employment begins and be retained in compliance with § 391.51 <b>Example</b> Richard J Stilley Trip date 11.24.2018  Carrier failed to complete and keep MVR on file within 30 days of employment  Operated a 2015 Ford KS VIN# [REDACTED] 53258, KS tag# [REDACTED], gvwr 14,000 on a trip from Parkcity, KS to Springfield, MO					
3 STATE	Primary: 391.51(b)(9) CFR Equivalent: 391.51(b)(9)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to place a note related to the verification of the medical examiner's listing on the National Registry of Certified Medical Examiners required by 391.23(m) in driver qualification file(s). <b>Example</b> Richard J Stilley Trip date 11.24.2018  Carrier failed to place verification of the mec's listing on the National Registry of Certified Medical Examiners.  Operated a 2015 Ford KS VIN# [REDACTED] 53258, KS tag# [REDACTED], gvwr 14,000 on a trip from Parkcity, KS to Springfield, MO					





DERBY STEEL TECHNOLOGIES LLC  
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11/28/2018

### Part B Violations

4 FEDERAL	Primary: 395.8(a)	Discovered 1	Checked 30	Drivers/Vehicles In Violation 1	Checked 1
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**Description**

Falling to require driver to make a record of duty status.

Richard J Stilley

Trip date 11.24.2018

Driver failed to make a record of duty status for trip.

Operated a 2015 Ford KS VIN# [REDACTED] 53258, KS tag# [REDACTED], gvw 14,000 on a trip from Park City, KS to Springfield, MO

**Safety Fitness Rating Information:**

Total Miles Operated 25,000  
Recordable Accidents 0  
Recordable Accidents/Million Miles 0.00

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 :

**SATISFACTORY**

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

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.





## 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 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.

This letter should be submitted as soon as possible.

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







DERBY STEEL TECHNOLOGIES LLC  
U.S. DOT #: 2071214

Review Date:  
11/28/2018

### Part B Requirements and/or Recommendations

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

2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. 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.
4. Obtain a copy of each driver's driving record and review it annually. On new drivers make sure that you obtain a copy of driver's driving record within 30 days of employment. On CDL drivers, a copy of the mvr with attached medical card information must be on file before they are allowed to operate a CDL require cmv in interstate commerce.
5. Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.
6. 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.
7. I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this website: <http://kcc.ks.gov/transportation/safety-information>

Carrier representative: *Gary B. Goeller*

Date 11/28/2018

8. 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 Derby Steel Technologies LLC's vehicles operating authority and/or the impoundment of Derby Steel Technologies LLC's vehicles.

Signed *Gary B. Goeller*

Date 11/28/2018

9. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me: KCC Special Investigator Gary Goeller at 785-623-0541 or email at [g.goeller@kcc.ks.gov](mailto:g.goeller@kcc.ks.gov)



## **ATTACHMENT “B”**

## KCC WRITTEN STATEMENT

Signed Statement of Larry Spikes, Owner and Member of Derby Steel Technologies LLC.

Representative of Motor Carrier, Derby Steel Technologies LLC\_ USDOT#\_2071214  
I, Larry Spikes, voluntarily give the following statement to Special Investigator Gary K Goeller, KS8204, who has identified himself/herself as a Special Investigator for the State Of Kansas, Kansas Corporation Commission. No threats or promises have been made to me in exchange for this statement.

**NARRATIVE:**

On Saturday November 24, 2018, Richard Stilley operated a 2015 Ford F-350, KS Tag # [REDACTED], KS Vin# [REDACTED] 53258, gvwr 14000 registered to Derby Steel Technologies LLC, as an employee, in interstate commerce to service a customer in Springfield Missouri. On this trip, Richard Stilley did not complete a record of duty status for this interstate trip.

I have read the foregoing statement consisting of \_1\_ page(s). It is true, accurate and complete to the best of my knowledge. I reviewed any changes and they bear my initials.

I sign this statement under the penalty of perjury in the presence of GARY GOELLER.

Witness'/Interviewee's signature

Date

*[Signature]*

11/28/2018

I certify that I prepared and took the above statement and that it is a complete and accurate summary of my interview with the witness.

Safety Investigator's Signature

Date

*[Signature]*

11-28-2018

**CERTIFICATE OF SERVICE**

19-TRAM-261-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 01/11/2019.

LARRY SPIKES, MANAGING MEMBER  
DERBY STEEL TECHNOLOGIES, LLC  
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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