



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

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

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

June 13, 2019

19-TRAM-502-PEN

Donald Perry Wade, Managing Member
Circle P Trucking LLC
102 N Walnut Street
Erie, KS 66733

This is a notice of a penalty assessment against Circle P Trucking LLC (Circle P Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on May 29, 2019, by Kansas Corporation Commission Special Investigator Michael Heenan. 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:

Circle P Trucking 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.

CIRCLE P TRUCKING 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.

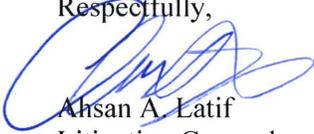
IF YOU CONTEST THE PENALTY ORDER:

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. Circle P Trucking 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



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Topeka, KS 66604-4027

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REDUCED PENALTY AGREEMENT

19-TRAM-502-PEN

Circle P Trucking LLC (Circle P Trucking) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated June 13, 2019. Circle P Trucking has agreed to comply with the following terms and obligations:

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

Circle P Trucking 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, Circle P Trucking will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this _____ day of _____, 2019.

Circle P Trucking LLC

Donald Perry Wade
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 and alatif@kcc.ks.gov.)

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. Circle P Trucking LLC (Circle P Trucking) has common operating authority with the Commission and further operates under USDOT number 2957440.

5. Donald Perry Wade attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on December 5, 2017, on behalf of Circle P Trucking.

6. Circle P Trucking is a common motor carrier which primarily hauls livestock.

7. Circle P Trucking 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 May 29, 2019, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of Circle P Trucking. 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 March 23, 2019, Circle P Trucking required or permitted its driver, Donald P. Wade, to operate a CDL-required commercial motor vehicle, a

2004 Peterbilt 379 tractor, VIN ending in 827448, GVWR 54,000 lbs., pulling a 2009 Wilson trailer, VIN ending in 536591, in intrastate commerce from Fort Scott, Kansas to St. Paul, Kansas. This trip is evidenced by Driver's Daily Log, dated March 23, 2019, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Circle P Trucking could not provide proof that the 2009 Wilson trailer had been annually inspected. The carrier's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

- b. During the transportation described in paragraph a, above, Circle P Trucking did not have a valid motor vehicle (MVR) record in the driver qualification file for the period of November 7, 2018 through May 22, 2019. The carrier's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,112. Staff recommends a fine of \$100.

IV. STAFF'S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Circle P Trucking 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 Circle P Trucking 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 Circle P Trucking 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 Circle P Trucking 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 Circle P Trucking 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 Circle P Trucking because it is a motor carrier as defined in K.A.R. 82-4-1.

16. The Commission finds a penalty of \$350 should be assessed to Circle P Trucking 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 Circle P Trucking 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. Circle P Trucking LLC, of Erie, 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 Circle P Trucking 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. Circle P Trucking 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. Circle P Trucking 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 Circle P Trucking 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 Circle P Trucking'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. 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 Circle P Trucking'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. 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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 06/13/2019



Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT "A"

Kansas Corporation Commission

	US DOT # 2957440	Legal: CIRCLE P TRUCKING LLC Operating (DBA):
MC/MX #: 000000		Federal Tax ID: [REDACTED] (EIN)
Review Type: Compliance Review (CR)		
Scope: Principal Office	Location of Review/Audit: Company facility in the U. S.	
Territory: C		
Operation Types Interstate Intrastate		
Carrier: Non-HM Non-HM Shipper: N/A N/A Cargo Tank: N/A	Business: Corporation Gross Revenue: [REDACTED] for year ending: 12/31/2018	
Company Physical Address:		
102 N WALNUT ST ERIE, KS 66733		
Contact Name: Joyce A Wade		
Phone numbers: (1) [REDACTED]		Fax
E-Mail Address: [REDACTED]		
Company Mailing Address:		
102 N WALNUT ST ERIE, KS 66733		
Carrier Classification		
Authorized for Hire		Exempt for Hire
Cargo Classification		
Livestock		
Equipment		
	Owned	Term Leased
	Trip Leased	Owned
	Term Leased	Trip Leased
Truck Tractor	1	0
	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:	1	
Average trip leased drivers/month: 0		
Total Drivers: 1		
CDL Drivers: 1		





CIRCLE P TRUCKING LLC
U.S. DOT #: 2957440

Review Date:
05/29/2019

Part A

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

1500 SW Arrowhead Rd
Topeka, Ks 66604-4027
Attn: Gary Davenport 785-271-3145

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Donald P Wade

Title: Owner

Name: Joyce A Wade

Title: Secretary





CIRCLE P TRUCKING LLC
U.S. DOT #: 2957440

Review Date:
05/29/2019

Part B Violations

1 STATE	Primary: 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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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

Donald P Perry
03-23-19

At the time of this trip, the carrier/driver had a MVR dated 11-07-17 valid thru 11-07-18 and another one dated 05-22-19 that was valid thru 05-22-20. The second MVR was obtained after the carrier was advised of review.

The carrier went from 11-07-18 to 5-22-19 with no current MVR in the driver file.

2 STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Using a commercial motor vehicle not periodically inspected.

Example

Donald P Perry
03-23-19

At the time of this trip, the carrier/driver could not provide any annual inspection on the trailer that he was hauling cattle in on the above date. The trailer is owned by JDH Cattle Brokers and was picked up the carrier on 02-12-19. The carrier had an annual inspection for the previous 2 years on his tractor.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	92,001	Number of Vehicle Inspected (CR): 0	
Recordable Accidents	0	OOS Vehicle (MCMIS): 0	
Recordable Accidents/Million Miles	0.00	Number of Vehicles Inspected (MCMIS): 0	

Your proposed safety rating is : SATISFACTORY	Rating Factors	Acute	Critical
	Factor 1:	S	0
	Factor 2:	S	0
	Factor 3:	S	0
	Factor 4:	S	0
	Factor 5:	N	0
	Factor 6:	S	-

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





CIRCLE P TRUCKING LLC
U.S. DOT #: 2957440

Review Date:
05/29/2019

Part B Requirements and/or Recommendations

1. Ensure that all commercial motor vehicles, which would include trailers as well as power units, have a current Annual Inspection as required by 396.17. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of the inspection, and the name and address of the motor carrier or entity where the report is maintained.

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

The KCC requires that you prepare a corrective action letter plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their

policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their 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 Submit the letter along with

copies of your supporting evidence to:

e-mail: 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

3. 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.





CIRCLE P TRUCKING LLC
 U.S. DOT #: 2957440

Review Date:
 05/29/2019

Part B Requirements and/or Recommendations

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.

4. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.
5. 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 Circle P Trucking LLC operating authority and/or the impoundment of Circle P Trucking LLC vehicles.

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

x Donald P. Wedz
 Printed

x *Donald P. Wedz*
 Signed

x M.W. Haenan 8213
 Investigator Printed

x *M.W. Haenan 8213*
 Investigator(s) Signed



ATTACHMENT "B"

CERTIFICATE OF SERVICE

19-TRAM-502-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail/hand delivered on 06/14/2019.

DONALD PERRY WADE, MANAGING MEMBER
CIRCLE P TRUCKING LLC
102 N WALNUT STREET
ERIE, KS 66733
circletrucking777@gmail.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