



1500 SW Arrowhead Road
Topeka, KS 66604-4027

20240402105415
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
24-TRAM-647-PEN

April 2, 2024
Andrew Waggoner
Andrew's AG Transport LLC
11383 NE Harvest Road
Isabel, Kansas 67065-6035

This is a notice of a penalty assessment against Andrew's AG Transport LLC (Andrew's AG) for violations of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted March 7, 2024, by Kansas Corporation Commission Special Investigator Doug Handy. Penalties are assessed in accordance with the FY 2024 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2023. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Andrew's AG has been assessed a \$1,850 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,850, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Andrew's AG to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

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

IF YOU FAIL TO ACT: Failure to pay the penalty of \$1,850 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

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

¹ K.A.R. 82-1-215; K.S.A. 77-542.

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Annie Kuether

In the Matter of the Investigation of **Andrew’s**)
AG Transport LLC, of Isabel, Kansas.)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 24-TRAM-647-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:

1. On March 7, 2024, Commission Staff Special Investigator (SI) Doug Handy completed a safety compliance investigation of the operations of Andrew’s AG Transport LLC (Andrew’s AG or Carrier). Andrew’s AG is a motor carrier as defined in 49 C.F.R. 390.5, and operates under USDOT number 3750940.

2. On March 21, 2024, Staff submitted its Report and Recommendation (“R&R”), attached hereto as Attachment “A” and is hereby incorporated by reference, recommending a penalty of \$1,850 to be issued to Andrew’s AG based on the frequency, timeline and severity of the violations discovered. Staff’s R&R indicates that as a result of the safety compliance investigations, SI Doug Handy identified six (6) violation(s), accounting for six (6) count(s), of

the Motor Carrier Safety Regulations (MCSRs), which carry a penalty according to the FY2024 Uniform Penalty Assessment Matrix.²

3. Additionally, Staff recommends that Andrew's AG be required to have a representative responsibility for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance.³ A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

4. Staff further recommends Andrew's AG submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.⁴

5. Finally, Staff recommends that Andrew's AG submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order.⁵ Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

6. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112 and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in

² Order Designating Guidance Document and Approving Staff's Use of the Transportation Division's Uniform Penalty Assessment Table, pp. 11 – 26 (Jun. 29, 2023) ("Penalty Matrix").

³ See Staff's Report and Recommendation, p. 4 (Mar. 21, 2024).

⁴ *Id.*

⁵ *Id.*

Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

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

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

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Andrew's AG Transport LLC of Isabel, Kansas is hereby assessed a \$1,850 civil penalty for six (6) violation(s), accounting for six (6) count(s), of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Andrew's AG is hereby ordered to have a representative responsible for the Carrier's safety compliance attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Andrew's AG is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed

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

D. Andrew's AG is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the Carrier to set up the appointment.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Andrew's AG's right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.⁶

G. If you do not request a hearing, the payment of the civil penalty of \$1,850 is due in thirty (30) days from the date of service of this Order. Payment of \$1,850 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking

⁶ . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$1,850 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Andrew's AG's motor carrier operating authority without further notice.⁷ Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Kuether, Commissioner

Dated: 04/02/2024



Lynn M. Retz
Executive Director

AAL

⁷ K.S.A. 66-1,105.

ATTACHMENT “A”

**REPORT AND RECOMMENDATION
TRANSPORTATION DIVISION**

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Annie Kuether, Commissioner

FROM: Gary Davenport, Deputy Director of Transportation
Jared Smith, Public Service Executive

DATE: March 21, 2024

SUBJECT: Docket No. 24-TRAM-647-PEN
In the Matter of the Investigation of **Andrew's AG Transport LLC of Isabel, Kansas** Regarding the Violation of the Motor Carrier Rules and Regulations and the Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of Motor Carrier Authority

EXECUTIVE SUMMARY:

Andrew's AG Transport LLC is a motor carrier (MC) possessing public for-hire operating authority from the Commission, primarily hauling grain, feed and hay. Andrew's AG Transport LLC operates under USDOT 3750940. On March 7, 2024, Commission Staff Special Investigator (SI) Doug Handy completed a safety compliance investigation of the operations of Andrew's AG Transport LLC. A copy of the safety compliance report is attached hereto as **Exhibit 1** and is hereby incorporated by reference. As a result of this investigation, the SI identified six (6) violations, accounting for six (6) specific counts, of the Motor Carrier Safety Regulations (MCSRs), which carries a penalty according to the FY2024 Uniform Penalty Assessment Matrix approved by the Commission. Based on the frequency, timeline and severity of the violations discovered by the SI, staff recommends penalty of \$1,850 be issued to the MC.

DISCUSSION AND ANALYSIS:

On March 7, 2024, Commission Staff SI Doug Handy conducted a safety compliance investigation of the operations of Andrew's AG Transport LLC. The investigation covers a 365 day period. Each specific count is detailed below.

Count One (1 of 6)

Jurisdiction: 49 C.F.R. 382.301(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must require its driver to submit to a pre-employment controlled substances USDOT regulated test and to obtain a negative test result prior to requiring or permitting the driver to operate a commercial motor vehicle.

Supporting Documentation: On November 29, 2023, Andrew's Ag Transport, LLC required or permitted its driver, Brandon Tillotson, to operate a commercial driver's license (CDL) required commercial motor vehicle (CMV), a 1985 Peterbilt, VIN ending in 2739, GVWR 52,000 lbs., pulling a 1999 Trailmobile, VIN ending in 5288, GVWR 65,000 lbs., in intrastate commerce from Anthony, Kansas to Clearwater, Kansas. A pre-employment controlled substance USDOT regulated test result for this driver was not obtained until February 1, 2024, as evidenced by a Speciman Result Certificate, attached hereto as **Exhibit 2**. This transport took place before that date, as evidenced by a November 2023 trip sheet, attached hereto as **Exhibit 3**.

Violation: Andrew's Ag Transport, LLC permitted or required a driver to operate a commercial motor vehicle before receiving a negative pre-employment controlled substance test result (**Exhibit 1, Page 3**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$650.

Count Two (2 of 6)

Jurisdiction: 49 C.F.R. 382.305(i)(2), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must ensure each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are made.

Supporting Documentation: This violation took place during the transport described in Count One, above. This is evidenced by a Transportation Compliance Service Active Driver List for Random Selection dated February 22, 2024 and the No Random Selection Letter dated February 28, 2024, attached hereto as **Exhibit 4**. The Random Selection Letter states that driver Brandon Tillotson was not in the random pool as of January of 2024 and therefore was not able to be selected in the 1st quarter selections. Mr. Tillotson was not placed in the random selection pool until after receiving a negative employment test result of February 1, 2024. This transport took place in November of 2023, well before Mr. Tillotson's addition to the random selection pool.

Violation: Andrew's Ag Transport, LLC failed to ensure that each driver subject to random alcohol and controlled substances testing had an equal chance of being selected each time selections were made (**Exhibit 1, Page 3**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$250.

Count Three (3 of 6)

Jurisdiction: 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must designate an individual to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. The designated individual must undergo reasonable suspicion training that includes 60 minutes of alcohol training and 60 minutes of controlled substance training. The MC must retain documentation of such training

pursuant to 49 C.F.R. 382.401(b) and failure to produce such documentation constitutes a failure to conduct the required training.

Supporting Documentation: This violation took place during the transport described in Count One, above. Andrew Waggoner is the contact person listed with the consortium as the administrator, *see Exhibit 5*. The MC was unable to provide documentation for supervisory training related to reasonable suspicion training as required by the regulations

Violation: Andrew's Ag Transport, LLC failed to ensure the person designated to determine that drivers undergo reasonable suspicion testing received 60 minutes training for alcohol and/or 60 minutes of training for controlled substances (**Exhibit 1, Page 3 to 4**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$100.

Count Four (4 of 6)

Jurisdiction: 49 C.F.R. 382.701(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must conduct a pre-employment inquiry into its drivers with the FMCSA Drug and Alcohol Clearinghouse.

Supporting Documentation: This violation took place during the transport described in Count One, above. Additionally, attached is a copy of the MC's DACH Report, attached hereto as **Exhibit 5**. The DACH Report does not list any pre-employment inquiries conducted by the MC.

Violation: Andrew's Ag Transport, LLC failed to conduct a pre-employment (full) query into its drivers (**Exhibit 1, Page 4**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$500.

Count Five (5 of 6)

Jurisdiction: 49 C.F.R. 382.701(b), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must conduct an annual inquiry into its drivers with the FMCSA Drug and Alcohol Clearinghouse.

Supporting Documentation: On February 15, 2024, Andrew's Ag Transport, LLC required or permitted its driver, Andrew Waggoner, to operate a CDL-required CMV, a 1985 Peterbilt, VIN ending in 2739, GVWR 52,000 lbs., pulling a 1999 Trailmobile, VIN ending in 5288, GVWR 65,000 lbs., in intrastate commerce from Anthony, Kansas to Clearwater, Kansas. The MC's failure to run an annual inquiry into its drivers is evidenced by the MC's DACH Report, attached hereto as **Exhibit 5**. The DACH Report lists no annual inquiries that had been conducted. Additionally, the transport is evidenced by the February 2024 Trip sheet, attached hereto as **Exhibit 6**.

Violation: Andrew's Ag Transport, LLC failed to conduct a limited (annual) query into its drivers (**Exhibit 1, Page 4**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$250.

Count 6 (6 of 6)

Jurisdiction: 49 C.F.R. 391.25, adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129.

Intent of Law: The MC must make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver.

Supporting Documentation: This violation took place during the transport described in Count Five, above. This is evidenced by the MVR that was last obtained on November 8, 2021, attached hereto as **Exhibit 7**. This was the most recent MVR that could be provided for Mr. Waggoner.

Violation: Andrew Ag Transport, LLC failed to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months (**Exhibit 1, Page 4 to 5**). One (1) violation was discovered.

Recommendation: Staff recommends a fine of \$100.

RECOMMENDATION:

Transportation Staff recommends the Commission find Andrew's AG Transport LLC committed six (6) violations, accounting for six (6) specific counts, of Kansas law that governs MCs, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations (K.A.R.s), and is therefore subject to sanctions or fines imposed by the Commission.

Due to the frequency, timeline and severity of the violations, Staff recommends a civil penalty of \$1,850 for six (6) violations of the MC Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

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

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

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

Exhibit 1

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 3750940
MC/MX#: 0

Legal: ANDREW'S AG TRANSPORT LLC
Operating (DBA):

Investigation Date:
03/07/2024

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)

Extent of Operations: Entire Operation

Physical Address

11383 NE HARVEST RD
ISABEL, KS 67065-6035
United States

Mailing Address

11383 NE HARVEST RD
ISABEL, KS 67065-6035
United States

Contact Information

Contact Name: ANDREW WAGGONER
Email: andywaggoner7@gmail.com
Phone: (620)660-1861 **Cell:** (620)660-1861 **Fax:** () -

Business and Financial

Business Type: Limited Liability Corporation
Name of Gross Revenue Provider: Andrew Waggoner
Title of Gross Revenue Provider: Managing Member
Gross Revenue: ██████████ **For Year Ending:** 12/31/2023
Federal Tax ID: ██████████

Operation Classification and Type

Type of Operation: Non-HM Intrastate Carrier **Cargo**
Grain, Feed, Hay

Operation Classification

For-Hire Motor Carrier
Property
Exempt Commodities

Equipment

			Driver Information		
	Owned	Term Leased	Trip Leased	Drivers	
Truck Tractors	1				Intrastate
Trailers	5				Interstate
				> = 100 Miles	

Power units used in the U.S.: 1
Percentage of time used in the U.S.: 100%

Average trip leased driver/month: 0
Drivers with CDL: 2
Total Drivers: 2

Person(s) Interviewed

Name: ANDREW WAGGONER **Title:** OWNER OPERATOR

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:	1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378
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This report will be used to assess your safety compliance.

Violations

1. Primary: 382.301(a)

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

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver name: Brandon Tillotson

Trip date: 11-29-2023

Hire date 10-09-2023

Driver operated a CDL required Commercial Motor Vehicle in Intrastate commerce hauling cotton bales from Anthony, Ks. to Clearwater, Ks. prior to having a Negative Pre-employment controlled substance test result.

Carrier failed to conduct a pre-employment controlled substance test until 02-01-2024. Controlled substance ID Number 524004004 with a negative test result on 02-01-2024.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

2. Primary: 382.305(i)(2)

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

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
2		2

Example/Notes:

Driver Name: Brandon Tillotson

Trip Date: 11-29-2023

Selection Date

Driver was not listed in the random pool for January of 2024 to be selected in the 1st quarter selection. Driver wasn't placed in the random selection pool until after receiving a negative pre-employment test result on 02-01-2024.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
2		2

3. Primary: 382.603

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver name: Brandon Tillotson

Trip date: 11-29-2024

Supervisor/Company official not trained: Andrew Waggoner

Mr. Waggoner is the contact person listed with the consortium as the administrator. The carrier was unable to provide documentation for Supervisory Training related to Reasonable Suspicion Training as required by the regulations.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total

4. Primary: 382.701(a)

Failing to conduct a pre-employment query

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver Name: Brandon Tillotson

Trip Date: 11-29-2024

Hire Date: 10-09-2023

Carrier failed to conduct a pre-employment query with the Drug & Alcohol Clearinghouse prior to the driver performing a safety sensitive function. Driver operated a CDL required commercial motor vehicle in Intrastate commerce transporting agricultural commodities from Anthony, Ks. to Clearwater, Ks.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

5. Primary: 382.701(b)(1)

Failing to conduct an annual query.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

Driver Name: Andrew Waggoner

Trip Date: 02-15-2024

Hire Date: 10-25-2021

Carrier failed to conduct a limited (annual) query with the driver for 2022 or 2023.

Drivers/Vehicles in Violation

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

6. Primary: 391.25(a)

Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least

Violations Discovered

Fed	State	Total

once every 12 months.

	1	1
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Checked

Fed	State	Total
-----	-------	-------

	2	2
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Example/Notes:

Driver Name: Andrew Waggoner

Trip date: 02-15-2024

While reviewing the driver qualification file it was determined the driver failed to obtain an Motor vehicle record for 2022 & 2023

Drivers/Vehicles in Violation

Fed	State	Total
-----	-------	-------

	1	1
--	---	---

Checked

Fed	State	Total
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	2	2
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7. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Violations Discovered

Fed	State	Total
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	1	1
--	---	---

Checked

Fed	State	Total
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	2	2
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Example/Notes:

Driver Name: Andrew Waggoner

Trip date: 02-15-2024

Hire Date: 10-25-2021

Carrier failed to have annual reviews in the driver qualification file for 2022 and 2023.

Drivers/Vehicles in Violation

Fed	State	Total
-----	-------	-------

	1	1
--	---	---

Checked

Fed	State	Total
-----	-------	-------

	2	2
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8. Primary: 391.51(b)(8)

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).

Violations Discovered

Fed	State	Total
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	1	1
--	---	---

Checked

Fed	State	Total
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	2	2
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Example/Notes:

Driver Name: Andrew Waggoner

Trip date: 02-15-2024

MEC Date: 10-26-2023

MEC: Megan Nelson Nat#5174796340

Drivers/Vehicles in Violation

Fed	State	Total
-----	-------	-------

	1	1
--	---	---

Checked

Fed	State	Total
-----	-------	-------

Carrier failed to confirm Medical Examiner is in the National Registry.

2

2

Safety Fitness Rating

This Investigation is Not Rated

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

Process Breakdown and Remedies

BASIC: Controlled Substances/Alcohol

Process Breakdown: Roles and Responsibilities

Carrier failed to conduct pre-employment (Full Query) on each new driver hired. Carrier failed to conduct a pre-employment controlled substance test and have a negative test result prior to the driver performed a safety sensitive function.

Specific Recommended Remedies

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

1. Regardless of carrier membership in a consortium, ensure that the carrier defines and documents the role and responsibilities of the designated employer representative (DER) in monitoring test procedures and checking results.

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Carrier failed to obtain a Motor Vehicle Record for each driver annually as required by the regulations.

Specific Recommended Remedies

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

1. 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.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Training and Communication

1. Carrier failed to have a supervisor trained in reasonable suspicion controlled substance/alcohol testing.

Specific Recommended Remedies

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

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

Recommendations

1. **Additional Information**

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

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

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm

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

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

4. **New Hires**

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

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

5. **SMS website**

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review you safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

6. **Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

7. **Clearinghouse Registration - Employer**

Ensure you are registered in the Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

8. **Serious Violations**

This review contains violations that are serious in nature and may result in a penalty assessment against the company and/or drivers.

9. **CAP to Commission**

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

Email: g.davenport@kcc.ks.gov

FAX: 785-271-3124

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

10. **MVR**

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.

11. For all Investigations

"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.

12. CSA Outreach

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

13. Acknowledgement Signature

"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 Andrew's Ag Transport, LLC operating authority and/or the impoundment of Andrew's Ag Transport, LLC commercial motor vehicles.



Carrier Representative

2/29/24
Date

Exhibit 2

@screen Specimen Result Certificate

ID Number: **525004004**

Report printed on 2/7/2024 10:45:59 AM

Page 1 of 1

Attention:
Mya Cabrera

TCS House
3320 E. Goldstone Way
Meridian, ID 83642

Collection Site:
49413 - Patterson Health Center (Harper Hospital)
485 N KS Hwy 2
Anthony, KS, 67003

Verification Date **2/1/2024 03:39 PM**

Medical Review Officer:
Dr. Brian N. Heinen
151 Leon Ave.
Eunice, LA 70535
888-382-2281

Donor Name: TILLOTSON, BRANDON S
Date Of Test: 1/26/2024
ID Number: 525004004

Donor SSN: XXXXXXXXXX
Donor ID:
Reason for Test: Pre-employment

Laboratory: ALERE

Regulation: DOT-FMCSA
Specimen Type: Urine

Drugs Tested:

Drug Name	Result	Laboratory Screening Cutoff *	Laboratory Confirmation Cutoff *	Drug Name	Result	Laboratory Screening Cutoff *	Laboratory Confirmation Cutoff *
Marijuana	Negative	50 ng/ml	15 ng/ml	Hydrocodone/Hydromorphone	Negative	300 ng/ml	100 ng/ml
Cocaine	Negative	150 ng/ml	100 ng/ml	Oxycodone/Oxymorphone	Negative	100 ng/ml	100 ng/ml
Amphetamines	Negative	500 ng/ml	250 ng/ml	PCP	Negative	25 ng/ml	25 ng/ml
Opiates	Negative	2000 ng/ml	2000 ng/ml	MDMA/MDA	Negative	500 ng/ml	250 ng/ml
6-Monoacetylmorphine	Negative	10 ng/ml	10 ng/ml				

Final Result Disposition: **Negative**

CCF Record Date and Data Entry Operator : 2/1/2024 MM/DD/YYYY - MAXFIMX

TO BE COMPLETED BY THE MEDICAL REVIEW OFFICER

I have reviewed the laboratory results for the specimen identified by this form in accordance with applicable Federal requirements. My determination/verification is:

Negative
 Positive
 Test Cancelled
 Adulterated
 Refusal to test because
 Dilute
 Substituted

REMARKS:

Dr. Brian N. Heinen

Brian N Heinen MD

2/1/2024 03:39 PM

(PRINT) Medical Review Officer's Name

Signature of Medical Review Officer

Date (Mo./Day/Yr.)

* Represents laboratory screening and confirmation values.

† Represents class (Sub-Class Abbreviation)

Exhibit 3

FRI- Nov. 24th ---- THUR- Nov. 30th 2023-2024 Round Bales

Loader - Thom 5/50
Payee Andrew's Ag Transport

Date	Time	# Bales	Miles	Producer	Acct #	Hauler	Mod. #	Yard Loc.	Gross Wt.	Tare Wt.
11/29		9	79	Thom 25	2590-15	Andy	1538	Stage	77300	34600
11/29		8	79	Thom 36	2590-15	Borden	1542	Stage	74580	34360
11/30		8	79	Thom Sec 8	2590-14	Borden	1635	Stage	76880	35100
11/30		3	79	Thom Sec. 8	2590-14	Andy	1645	Stage	75640	59980
11/30		5	76	Thom	2590-15	Andy	1637	Stage	59980	33840
11/30		8	79	Thom	2590-14	Andy	1639	Stage	76260	35260

Exhibit 4



www.transportationcomplianceservice.com

Active Driver List for Random Selection

Transportation Compliance Service | 3320 E Goldstone Dr, Meridian, ID 83642

Andrew's AG Transport LLC
11383 NE Harvest Rd
Isabel, KS 67065

The employees that are eligible for random drug & alcohol testing are listed below. Please review and advise if any changes need to be made.

Date:

February 22, 2024

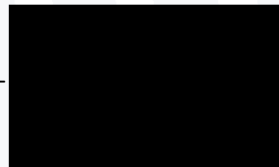
<u>Driver First & Last Name</u>	<u>CDL Number</u>	<u>Last Test</u>	<u>Reason for Test</u>	<u>Result</u>
Brandon Tillotson	[REDACTED]	26-Jan-2024	Pre-Employment	Negative
Andrew Waggoner	[REDACTED]	11-Nov-2021	Pre-Employment	Negative



Transportation Compliance Service
3320 E Goldstone Dr Meridian, Idaho 83642 | Phone 866-389-9342 Option 2

No Random Selection Letter

To Whom It May Concern:



This letter is to confirm the enrollment for 2024 in our random selection consortium for Brandon Tillotson and Andrew Waggoner.

Q1 2024 random selection eligibility included Andrew Waggoner, however there was no selections for the company. Beginning Q2 2024, random selection eligibility will include Brandon Tillotson and Andrew Waggoner.

If you need additional assistance or have any questions, please feel free to let me know.

Thank you,

Mya Cabrera
Transportation Compliance Service
Random Drug & Alcohol Selection Consortium
Phone# (208) 287-0561
Fax: (208) 287-0561

Exhibit 5

On **Wednesday**, February 28, 2024, between 6 pm and 10 pm Eastern Time, Commercial Driver's License Information System (CDLIS) will be intermittently unavailable due to scheduled system maintenance on CDLIS Gateway. Clearinghouse users may experience issues verifying driver information during this maintenance time.

DRUG & ALCOHOL CLEARINGHOUSE



[← BACK TO DASHBOARD](#)

Andrew's AG Transport LLC

Address: 11383 NE Harvest Road ; Isabel , KS 67065; US

Email:

Owner Operator: Yes

As of: 2/27/2024 17:09

[Download Compliance Report](#)

[Download Query History](#)

[Users](#) | [C/TPAs](#) | [Annual Queries](#) | [Pre-Employment Queries](#) | [Violations](#)

REGISTERED USERS

Email	Name	Role	Created	Last Login
waggyjr1_16@hotmail.com	Andrew Waggoner	Admin	10/28/2021	10/28/2021

C/TPAS DESIGNATED

C/TPA	Status	Report Violations	Report RTD Information	Conduct Queries
Transportation Compliance Service, LLC	Active	Yes	Yes	Yes

DRIVER CHECK (ANNUAL QUERIES CONDUCTED)

Name	Country	CDL	Most Recent Query	Submitted on	Consent Received	Result
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PRE-EMPLOYMENT QUERIES CONDUCTED

Name	Country	CDL	Most Recent Query	Submitted on	Consent Received	Result
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VIOLATIONS REPORTED

Test Date	Driver Name	CDL/CLP	Test Reason	Violation Type	Reported By	Reported On	Updated By	Updated On
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Exhibit 6

Exhibit 7

FILE NUMBER	641813	REPORT DATE	11-08-2021
REPORT TO	Drug Testing Experts (460709) 623 E. Schiler Ln Meridian, ID 83642 Phone: (208) 514-3297 Fax: -	ORDER DATE	11-08-2021 Andrea Axelson
		TYPE	Transportation Compliance Service

Application Information

APPLICANT	WAGGONER, ANDREW	SSN	-	DOB	[REDACTED]
DRIVERS LICENSE	[REDACTED]	PHONE NUMBER	-		[REDACTED]

Credentials

Driving Record

RESULTS License Found With Records

STATE OF ISSUE Kansas SEARCH DATE 11-08-2021 2:17 PM MST

LICENSE NUMBER [REDACTED]

License Number: [REDACTED]

License State: KANSAS

History Length: 3Y

Full Name: WAGGONER, ANDREW RAY

License Info

Status: VALID

License Type: COMMERCIAL

Class: A

Class Description: COMBINATION 26,001 LBS. OR MORE, TOWING IN EXCESS OF 10,000 LBS.

Expiration Date: 2024-11-18

Issue Date: 2019-11-15

Original Issue Date: 2007-11-30

Other License Info

Deceased: N

Medical Certificate

Status: CERTIFIED

Issue Date: 2021-10-14

Expiration Date: 2023-10-14

Examiner

Name: C PATRICK MARTIN

License No: 147333

License Jurisdiction: KS

Registration Number: 9466649074

Phone Number: (620)886-5949

Specialty: ADVANCED PRACTICE NURSE

Self Certification

Description: NON-EXCEPTED INTERSTATE
Type: NI

Messages

Vendor Message: EXPIRATION DATES IN THIS DOCUMENT MAY HAVE BEEN EXTENDED PURSUANT TO EXECUTIVE
Vendor Message: OR LEGISLATIVE ACTION OF THE ISSUING JURISDICTION RELATED TO COVID-19.
Vendor Message: PLEASE CONSULT WITH THE JURISDICTION FOR FURTHER DETAILS.
Vendor Message: WITH RESPECT TO REPORTED ACCIDENTS, UNLESS THIS DOCUMENT SPECIFICALLY REPORTS
FAULT, NO DETERMINATION IS MADE AS TO FAULT.
KANSAS License #: K02305463 is valid and not clear.

ACCD

State: KS
Date: 2016-06-18
Location: RUSSELL
IsHazMat: N
IsCommercial: N
AdrLargeDescription: ** ACCIDENT **
AdrSmallDescription: ** ACCIDENT **
StateDescription: ** ACCIDENT **
Avd1: AA01
TableKey: KSA02** ACCIDENT **
IsInjuryAccident: N
IsFatalityAccident: N
ReportNumber: 0115114

WARNING: Confidential Information - To Be Used As Per State And Federal Laws. Misuse May Result In A Criminal Prosecution.

Disclaimer

This report is furnished to you pursuant to the Agreement for Service between the parties and in compliance with the Fair Credit Reporting Act. This report is furnished based upon your certification that you have a permissible purpose to obtain the report. The information contained herein was obtained in good faith from sources deemed reliable, but the completeness or accuracy is not guaranteed.

***** End Of Report *****

CERTIFICATE OF SERVICE

24-TRAM-647-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 04/02/2024.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

Andrew Waggoner, OWNER OPERATOR
Andrew's Ag Transport LLC
11383 NE Harvest Rd
Isabel, KS 67065
andywaggoner7@gmail.com

/S/ KCC Docket Room
KCC Docket Room