

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20211014110121
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

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

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
22-TRAM-167-PEN

October 14, 2021

Kobi Foster, Safety Director
HAMM, Inc.
609 Perry Pl
Perry, KS 66073

This is a notice of a penalty assessment against HAMM, Inc. (HAMM) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 6, 2021, by Kansas Corporation Commission Special Investigators, Wade Patterson and Matt Adams. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: HAMM has been assessed a \$2,000 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$2,000, 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 HAMM to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. HAMM 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 \$2,000 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
Susan K. Duffy

In the Matter of the Investigation of **HAMM,**)
Inc., of Perry, KS, Regarding the Violation(s))
of the Motor Carrier Safety Statutes, Rules and)
Regulations and the Commission’s Authority to) Docket No. 22-TRAM-167-PEN
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 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 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. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the

regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

II. BACKGROUND

4. HAMM, Inc. (HAMM or Carrier) operates under USDOT number 634172.

5. Robert Wilkinson attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on December 9, 2019 on behalf of HAMM.

6. HAMM is a common motor carrier which primarily hauls garbage, refuse, trash, construction, and aggregate materials.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on October 6, 2021, Commission Staff (Staff) Special Investigators, Wade Patterson and Matt Adams, conducted a safety compliance review of the operations of HAMM. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

- a. On August 5, 2021, HAMM required or permitted its driver, Chris Erickson, to operate a CDL-required commercial motor vehicle, a 2008 Peterbilt, VIN ending in 769512, GVWR 33,000 lbs., in intrastate commerce in from Perry, Kansas to Louisburg, Kansas. This trip is

evidenced by an hours of service log for Chris Erickson, dated August 5, 2021, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, HAMM failed to implement a random controlled substance or alcohol testing program. The Carrier’s failure to require its drivers to be enrolled in a random alcohol and controlled substance testing program is a violation of 49 C.F.R. 382.305(a) and (i)(2), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$1,000.

- b. During the transportation described in paragraph a., above, HAMM failed to maintain a copy of the driver’s, Mr. Erickson, motor vehicle report (MVR). The Special Investigators found five (5) violations of this type. The Carrier’s failure to inquire into the driving record of each of its drivers at least annually and to maintain the MVR in the driver’s qualification file is a violation of 49 C.F.R. 391.25(c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.
- c. During the transportation described in paragraph a., above, HAMM failed to require its driver, Mr. Erickson, to prepare a record of duty status. The Special Investigators found thirty (30) violations of this type. The Carrier’s failure to require its drivers to prepare a record of duty status is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

IV. STAFF’S RECOMMENDATIONS

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

9. Based upon the available facts, Staff recommends the Commission finds HAMM committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Additionally, Staff recommends a civil penalty of \$2,000 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

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

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

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

V. CONCLUSIONS OF LAW

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

15. The Commission finds HAMM committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. HAMM, Inc., of Perry, KS is hereby assessed a \$2,000 civil penalty for three (3) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. HAMM is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

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

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

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.²

G. If you do not request a hearing, the payment of the civil penalty of \$2,000 is due in thirty (30) days from the date of service of this Order. Payment of \$2,000 must be made 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/>. You must have an account through KTRAN to pay the penalty.

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

H. Failure to pay the \$2,000 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 HAMM's motor carrier operating authority without further notice.³ Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 10/14/2021



Lynn M. Retz
Executive Director

AAL

³ K.S.A. 66-1,105.

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 634172
MC/MX#: 0

Legal: HAMM INC
Operating (DBA):

Investigation Date:
10/06/21

Investigation Type: Offsite Investigation

Physical Address

609 PERRY PLACE
PERRY, KS 66073-4201
United States

Mailing Address

609 PERRY PL
PERRY, KS 66073
United States

Contact Information

Contact Name: KOBI FOSTER

Email:

Phone: (785)597-7430 **Cell:** ()- **Fax:** (785)597-5142

Business and Financial

Business Type: Corporation

Gross Revenue: [REDACTED] **For Year Ending:** 01/02/21

Federal Tax ID: [REDACTED]

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier, Non-HM Intrastate Carrier, HM Interstate Carrier, HM Intrastate Carrier

Operation Classification

Private Motor Carrier

Property – Hazardous Materials

Property – Non-Hazardous Materials

Cargo

Construction, Garbage, Refuse, Trash, Other (Aggregate Materials)

Hazardous Materials

Which of the following hazardous materials requiring a Safety Permit does the company transport?

None

Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E?

Yes

Is an HM Permit required by any State?

No

Hazardous Materials

Class 3 Flammable and Combustible Liquid = C, B, NB
Class 9 Miscellaneous Hazardous Materials = C, NB

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Straight Trucks	7				Intrastate	Interstate
Truck Tractors	42			< 100 Miles		36
Hazmat Cargo Tank Trailers	2			> = 100 Miles		9
Trailers	100			Average trip leased driver/month: 0 Drivers with CDL: 45 Total Drivers: 45		
Power units used in the U.S.: 49 Percentage of time used in the U.S.: 100%						
Person(s) Interviewed						
Name: KOBI FOSTER				Title: SAFETY DIRECTOR		
Questions						
Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:				1303 SW FIRST AMERICAN PL STE 200 TOPEKA, KS 66604-4040 Phone: (785) 271-1260 Fax: (877) 547-0378		
This report will be used to assess your safety compliance.						

Violations

<div>1. Primary: 382.305</div> <div>Failing to implement a random controlled substance and/or an alcohol testing program.</div> <div><div>A</div>Acute</div>	<div>Violations Discovered</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>1</td><td></td><td>1</td></tr></table> <div>Checked</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>1</td><td></td><td>1</td></tr></table>	Fed	State	Total	1		1	Fed	State	Total	1		1	<div>BASIC Impacted</div> <div>Controlled Substances/Alcohol</div>	<div>Rating Factor 2:</div> <div>Driver = Part 382</div>
Fed	State	Total													
1		1													
Fed	State	Total													
1		1													
<div>Example/Notes:</div> <div>On 8/05/2021 Hamm Inc. had driver Chris Erickson (KS CDL [REDACTED]) operate a CDL required vehicle in intrastate commerce. Mr. Erickson operated a 2008 Peterbilt 92151X truck ([REDACTED] 769512) from Perry Kanas to Louisburg Kansas. This vehicle has a gross vehicle weight rating of 33,000 pounds. This trip is evidenced by an incomplete hours of service record. At the time of this trip and during the investigation, carrier failed to implement a random controlled substance or alcohol testing program.</div>		<div>Drivers/Vehicles</div> <table><tr><th>In Violation</th><th>Checked</th></tr><tr><td></td><td></td></tr></table>		In Violation	Checked										
In Violation	Checked														
<div>2. Primary: 395.8(a)(1)</div> <div>Failing to require a driver to prepare a record of duty status using the appropriate method.</div> <div><div>C</div>Critical</div> <div>At least 10% of the number checked had violations</div>	<div>Violations Discovered</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>30</td><td>30</td></tr></table> <div>Checked</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>210</td><td>210</td></tr></table>	Fed	State	Total		30	30	Fed	State	Total		210	210	<div>BASIC Impacted</div> <div>Hours-of-Service Compliance</div>	<div>Rating Factor 3:</div> <div>Operational = Part 395</div>
Fed	State	Total													
	30	30													
Fed	State	Total													
	210	210													
<div>Example/Notes:</div> <div>On 8/05/2021 Hamm Inc. had driver Chris Erickson (KS CDL [REDACTED] 3) operate a CDL required vehicle in intrastate commerce. Mr. Erickson operated a 2008 Peterbilt 92151X truck ([REDACTED] 9512) from Perry Kanas to Louisburg Kansas. This vehicle has a gross vehicle weight rating of over 26,001 pounds. This trip is evidenced by an incomplete hours of service record. At the time of this trip and during the investigation, carrier failed to require driver to prepare a record of duty status.</div>		<div>Drivers/Vehicles</div> <table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>1</td><td>7</td></tr></table>		In Violation	Checked	1	7								
In Violation	Checked														
1	7														
<div>3. Primary: 391.25(c)(1)</div>		<div>Violations Discovered</div>													

Failing to maintain a copy of the motor vehicle record or response from each State agency in the driver qualification file.

Fed	State	Total
	5	5

Checked

Fed	State	Total
	8	8

Example/Notes:

On 8/05/2021 Hamm Inc. had driver Chris Erickson (KS CDL# [REDACTED]) operate a CDL required vehicle in intrastate commerce. Mr. Erickson operated a 2008 Peterbilt 92151X truck ([REDACTED] 69512) from Perry Kanas to Louisburg Kansas. This vehicle has a gross vehicle weight rating of 33,000 pounds. This trip is evidenced by an incomplete hours of service record. At the time of this trip and during the investigation, carrier failed to maintain a copy of the MVR in the driver qualification file.

Drivers/Vehicles

In Violation	Checked
5	8

4. 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
	5	5

Checked

Fed	State	Total
	8	8

Example/Notes:

On 8/05/2021 Hamm Inc. had driver Chris Erickson (KS CDL# [REDACTED]) operate a CDL required vehicle in intrastate commerce. Mr. Erickson operated a 2008 Peterbilt 92151X truck ([REDACTED] 69512) from Perry Kanas to Louisburg Kansas. This vehicle has a gross vehicle weight rating of 33,000 pounds. This trip is evidenced by an incomplete hours of service record. At the time of this trip and during the investigation, carrier failed to maintain notation of annual review.

Drivers/Vehicles

In Violation	Checked
5	8

5. Primary: 391.51(b)(6)

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

Violations Discovered

Fed	State	Total
	5	5

Checked

Fed	State	Total
	8	8

Example/Notes:

On 8/05/2021 Hamm Inc. had driver Chris Erickson (KS CDL [REDACTED]) operate a CDL required vehicle in intrastate commerce. Mr. Erickson operated a 2008 Peterbilt 92151X truck [REDACTED] 512) from Perry Kanas to Louisburg Kansas. This vehicle has a gross vehicle weight rating of 33,000 pounds. This trip is evidenced by an incomplete hours of service record. At the time of this trip and during the investigation, carrier failed to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Drivers/Vehicles	
In Violation	Checked
5	8

Safety Fitness Rating

This Investigation is Not Rated

Crash Rate:
Total Miles Operated: 6,288,000
Recordable Accidents: 4
Recordable Accidents/Million Miles: 0.64

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

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

Process Breakdown and Remedies

BASIC: Hours-of-Service Compliance

Process Breakdown: Training and Communication

Specific Recommended Remedies

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

1. Inform drivers that management will be monitoring and tracking Records of Duty Status (RODS).
2. Reinforce training about Hours-of-Service (HOS) policies, procedures, and responsibilities to drivers, dispatchers, and other employees, using job aids, post-training testing, and/or refresher training. Encourage informal feedback among them so that they can help each other to improve.
3. Provide training/testing program to current drivers on proper log completion, how to achieve proper rest on trips by instructing them on the difference between on-duty not driving, for example a driver waits while trailer is loaded, and off-duty, and the importance of proper rest between shifts.

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

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.
2. Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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.

2. **Carrier Crashes**

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

Division Administrator/State Director

Federal Motor Carrier Safety Administration

Mailing Address

1303 SW FIRST AMERICAN PL STE 200

TOPEKA, KS 66604-4040

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

3. **Additional Information**

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

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

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

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

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

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

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days.

Maintain all duty status records on file, with all supporting documents, for at least 6 months.

7. **150-mile exemption terms must be met.**

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

8. **Random Test Selections**

After selection of drivers for random testing, the program coordinator should send confidential correspondence to whoever is informing the selected drivers, noting the selection date, selected names, proper notification procedure, testing location, and when test results need to be completed. Drivers should be reminded that refusal to take the test will be equivalent to a positive result.

9. **KCC For All Investigations**

For all Investigations that could result in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in HAMM INC. (U.S.DOT# 634172) - 10/6/2021 - Page 7 any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your

signature is not an admission of the violations identified.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual is available on the Internet at the Federal Motor Carrier Safety Administration's web site at <http://www.fmcsa.dot.gov/> and <http://www.safer.fmcsa.dot.gov/>.

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

The KCC requires that you prepare a corrective action 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. Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov

FAX: 785-271-3124;

or mail to;

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Road

Topeka, KS 66604-4027

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 Southwest Transport Inc.'s authority and/or the impoundment of Southwest Transport Inc.'s Commercial Motor 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

ATTACHMENT “B”

DATE 8-5-71

Mechanic Chris E

Employee # 1040

Vehicle Operated 2098RE Total Hours Worked 14

Equip. #	Order	Work	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219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ATTACHMENT “C”

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

Laura Kelly, Governor

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

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

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

DATE: October 8, 2021

SUBJECT: Docket No. 22-TRAM-167-PEN
In the Matter of the Investigation of HAMM, Inc. of Perry, 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:

HAMM, Inc. (HAMM or Carrier) is a motor carrier possessing common operating authority from the Commission, primarily hauling garbage, refuse, trash, construction, and aggregate materials. HAMM operates under USDOT 634172. On October 6, 2021, Commission Staff Special Investigators, Wade Patterson and Matt Adams, conducted a safety compliance review of the operations of HAMM. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$2,000.

DISCUSSION AND ANALYSIS:

On October 6, 2021, Commission Staff Special Investigators, Wade Patterson and Matt Adams, conducted a safety compliance review of the operations of HAMM. As a result of this investigation, the special investigator identified three (3) violation(s) of the Motor Carrier Safety Regulations.

Violation One (1 of 3)

On August 5, 2021, HAMM required or permitted its driver, Chris Erickson, to operate a CDL-required commercial motor vehicle, a 2008 Peterbilt, VIN ending in 769512, GVWR 33,000 lbs., in intrastate commerce in from Perry, Kansas to Louisburg, Kansas. This trip is evidenced by an hours of service log for Chris Erickson, dated August 5, 2021. At the time of this transportation, HAMM failed to implement a random controlled substance or alcohol testing

program. The Carrier's failure to require its drivers to be enrolled in a random alcohol and controlled substance testing program is a violation of 49 C.F.R. 382.305(a) and (i)(2), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$1,000.

Violation Two (2 of 3)

During the transportation described in Violation One, above, HAMM failed to maintain a copy of the driver's, Mr. Erickson, motor vehicle report (MVR). The Special Investigators found five (5) violations of this type. The Carrier's failure to inquire into the driving record of each of its drivers at least annually and to maintain the MVR in the driver's qualification file is a violation of 49 C.F.R. 391.25(c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

Violation Three (3 of 3)

During the transportation described in Violation One, above, HAMM failed to require its driver, Mr. Erickson, to prepare a record of duty status. The Special Investigators found thirty (30) violations of this type. The Carrier's failure to require its drivers to prepare a record of duty status is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

RECOMMENDATION:

Transportation Staff recommends the Commission find HAMM committed three (3) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

Additionally, Staff recommends a civil penalty of \$2,000 for three (3) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

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

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

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

CERTIFICATE OF SERVICE

22-TRAM-167-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 10/14/2021.

Kobi Foster, SAFETY DIRECTOR
HAMM, INC.
609 PERRY PLACE
PERRY, KS 66073-4201

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

/S/ DeeAnn Shupe
DeeAnn Shupe