



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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**  
**21-TRAM-323-PEN**

March 4, 2021

Matt Mahaffey, Manager  
Mahaffey Hauling LLC  
6249 CR 4900  
Cherryvale, KS 67335

This is a notice of a penalty assessment against Mahaffey Hauling LLC (Mahaffey Hauling) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 11, 2021, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2021 Uniform Penalty Assessment Matrix, approved by the Commission on July 7, 2020. 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:** Mahaffey Hauling has been assessed a \$350 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$350, 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 Mahaffey Hauling 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](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. Mahaffey Hauling 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.<sup>1</sup>

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$350 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](mailto:a.latif@kcc.ks.gov)

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<sup>1</sup> 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 **Mahaffey**   )  
**Hauling LLC, of Cherryvale, KS**, Regarding   )  
the Violation(s) of the Motor Carrier Safety   )  
Statutes, Rules and Regulations and the   ) Docket No. 21-TRAM-323-PEN  
Commission's Authority to Impose Penalties,   )  
Sanctions and/or the Revocation of Motor   )  
Carrier Authority.                                    )

**PENALTY ORDER**

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

**I.        JURISDICTION**

1.       Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 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. Mahaffey Hauling LLC (Mahaffey Hauling or Carrier) has private and common operating authority with the Commission and further operates under USDOT number 3257454.

5. Matt Mahaffey attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on April 9, 2019, on behalf of Mahaffey Hauling.

6. Mahaffey Hauling is a private and common motor carrier which primarily hauls machinery, large objects, logs, poles, beams, lumber, building materials, livestock, grain, feed and hay.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on February 11, 2021, Commission Staff (Staff) Special Investigator Michael Heenan conducted a safety compliance review of the operations of Mahaffey Hauling. 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 two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On October 15, 2020, Mahaffey Hauling required or permitted its driver, Dan Mahaffey, to operate a CDL-required commercial motor vehicle, a

1999 Dodge Ram 3500 truck, VIN ending in 514212, GVWR 11,000 lbs., pulling a 2005 Golden trailer, VIN ending in 500, GVWR 20,000 lbs., in interstate commerce from Cherryvale, Kansas to Foster, Missouri. This trip is evidenced by Driver's Time Record, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. Mahaffey Hauling failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The special investigator discovered two (2) violations of this type. Mahaffey Hauling'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. 66-1,112. Staff recommends a fine of \$250.

- b. During the transportation described in paragraph a., above, Mahaffey Hauling failed to first designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The Carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R.

382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129.

Staff recommends a fine of \$100.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Staff submitted a Report and Recommendation (R&R), dated February 25, 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 Mahaffey Hauling 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. Additionally, Staff recommends a civil penalty of \$350 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from Mahaffey Hauling 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](http://kcc.ks.gov/trans/safety_meetings.htm).

12. Staff further recommends Mahaffey Hauling 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 Mahaffey Hauling 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 Mahaffey Hauling 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 Mahaffey Hauling 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.

### **THE COMMISSION THEREFORE ORDERS THAT:**

A. Mahaffey Hauling LLC, of Cherryvale, KS is hereby assessed a \$350 civil penalty 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.

B. Mahaffey Hauling 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. Mahaffey Hauling 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 Mahaffey Hauling'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. 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.<sup>2</sup>

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<sup>2</sup> K.S.A. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$350 is due in thirty (30) days from the date of service of this Order. Payment of \$350 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.

H. Failure to pay the \$350 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 Mahaffey Hauling's motor carrier operating authority without further notice.<sup>3</sup> 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: 03/04/2021



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Lynn M. Retz  
Executive Director

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<sup>3</sup> K.S.A. 66-1,105.

## **ATTACHMENT “A”**

# UNITED STATES DEPARTMENT OF TRANSPORTATION



**U.S. DOT#:** 3257454  
**MC/MX#:** 1026296

**Legal:** MAHAFFEY HAULING LLC  
**Operating (DBA):**

**Investigation Date:**  
02/11/21

**Investigation Type:** Onsite Comprehensive Investigation

**Location of Investigation:** Other (Onsite-Remote due to Covid 19 Restrictions)

**Extent of Operations:** Entire Operation

## Physical Address

6249 CR 4900  
CHERRYVALE, KS 67335  
United States

## Mailing Address

6249 CR 4900  
CHERRYVALE, KS 67335-8842  
United States

## Contact Information

**Contact Name:** MATT MAHAFFEY

**Email:** [REDACTED]

[REDACTED] : ()- [REDACTED] **Fax:** ()-

## Business and Financial

**Business Type:** Limited Liability Corporation

**Gross Revenue:** [REDACTED]  
[REDACTED] (EIN)

## Operation Classification and Type

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

### Operation Classification

For-Hire Motor Carrier

Property

Hazardous Materials

Private Motor Carrier

Property – Hazardous Materials

Property – Non-Hazardous Materials

## Cargo

Machinery, Large Objects, Logs, Poles, Beams, Lumber, Building Materials, Livestock, Grain, Feed, Hay

## 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?

N/A

Is an HM Permit required by any State?

No

Hazardous Materials

Class 9 Miscellaneous Hazardous Materials = C, S, NB

**Hazardous Materials****Equipment**

	Owned	Term Leased	Trip Leased
Straight Trucks	1		
Trailers	1		

**Power units used in the U.S.: 1****Percentage of time used in the U.S.: 100%****Driver Information****Drivers**

	Intrastate	Interstate
< 100 Miles		1
>= 100 Miles		1

**Average trip leased driver/month: 0****Drivers with CDL: 3****Total Drivers: 2****Person(s) Interviewed****Name:** MATT MAHAFFEY**Title:** OWNER**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:

1500 SW Arrowhead Rd  
Topeka, KS 66604-4027  
Phone: (785) 271-3151

**This report will be used to assess your safety compliance.**

## Violations

### 1. 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, Dan Mahaffey

Trip date, 10-15-20

Supervisor/Company official not trained. Jeannie Mahaffey

At the time of this trip, and the time of this review, the carrier and/or their Drug Consortium failed to provide this carrier with Reasonable Suspicion Supervisor Training. The carrier realizing the training was required at the time of this review, did in fact perform the training on 02-09-21.. The carrier was notified by email of this review on 01-29-21.

Origination: Cherryvale, Ks

Destination: Foster, Mo

#### Drivers/Vehicles

In Violation	Checked
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### 2. Primary: 391.51(b)(4)

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

#### Violations Discovered

Fed	State	Total
2		2

#### Checked

Fed	State	Total
2		2

#### Example/Notes:

Driver name, Dan Mahaffey

Trip date, 10-15-20

At the time of this trip, and the time of this review, the carrier/driver and their only other driver listed above was found with the following: Matt Mahaffey MVR dated, 3/20/2019 and Dan Mahaffey MVR dated 03/22/2019. These MVRs were expired in March of 2020. The carrier provided no other MVR for documentation. The carrier has not had any MVRs on either driver for nearly one year. The carrier failed to produce MVRs at least

#### Drivers/Vehicles

In Violation	Checked
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2	2
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annually. The carrier was notified by email of this review on 01-29-21.

Origination: Cherryvale, Ks

Destination: Foster, Mo

### 3. 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).

#### Example/Notes:

Driver name, Dan Mahaffey

Trip date, 10-15-20

At the time of this trip, and the time of this review, the carrier/driver and their only other driver listed above was found with the following: The carrier provided a annual review of drivers records that were not signed or dated. The carrier was notified by email of this review on 01-29-21.

Origination: Cherryvale, Ks

Destination: Foster, Mo

#### Violations Discovered

Fed	State	Total
2		2

#### Checked

Fed	State	Total
2		2

#### Drivers/Vehicles

In Violation	Checked
2	2

### 4. 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.

#### Example/Notes:

Driver name, Dan Mahaffey

Trip date, 10-15-20

At the time of this trip, and the time of this review, the carrier/driver and their only other driver had a certification of violations that was not completed or signed. The carrier was notified by email of this review on 01-29-21.

Origination: Cherryvale, Ks

Destination: Foster, Mo

#### Violations Discovered

Fed	State	Total
2		2

#### Checked

Fed	State	Total
2		2

#### Drivers/Vehicles

In Violation	Checked
2	2

**5. Primary: 391.51(b)(9)**

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
1		1

**Checked**

Fed	State	Total
1		1

**Example/Notes:**

Driver name, Dan Mahaffey

Trip date, 10-15-20

At the time of this trip, and the time of this review, the carrier provided a blank form for confirming their medical provider was actually a MRE. The form was blank and the carrier had not verified on the federal website. Both drivers were examined by Cherie Starbuck DC of Fredonia Ks. I verified that the provider was in fact registered and that the medicals were legitimate. The carrier was notified by email of this review on 01-29-21.

Origination: Cherryvale, Ks

Destination: Foster, Mo

**Drivers/Vehicles**

In Violation	Checked
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## Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory		
Factor 3: Operational = Parts 392 and 395	Satisfactory		
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 0 OOS Rate: 0%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Satisfactory		
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 10,000 Recordable Accidents: 0 Recordable Accidents/Million Miles: 0.00	Satisfactory	N/A	N/A

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

**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>.

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## Process Breakdown and Remedies

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### **BASIC: Controlled Substances/Alcohol**

#### **Process Breakdown: Roles and Responsibilities**

Carrier unaware of supervisor training, consortium informed them of the requirement for drug and alcohol policy for drivers, but not the supervisor training. Carrier has now obtained the training.

#### **Specific Recommended Remedies**

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

1. If the carrier elects to join a consortium, ensure that the respective roles and responsibilities of the carrier and the consortium for controlled-substance and alcohol testing and reporting are defined and documented.
2. Designate a manager to collect and evaluate all controlled-substance and alcohol-related customer complaints and their safety implications.

## Recommendations

### 1. Additional Information

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

### 2. A copy of your profile can be obtained by accessing the Portal.

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

### 3. 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.

### 4. Maintain a complete file documenting the qualification process.

Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.

### 5. Retain supporting documents for 6 months.

Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.

### 6. Reasonable Suspicion Training

Provide new-hire and refresher training, to all 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.

### 7. 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.

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

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

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

**8. Investigations not requiring Federal Corrective Action Plan.**

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](mailto: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

CAP: The State of Kansas Correction Plan above is required action and if not completed within the required time frame of 30 days there are penalties that will be involved and issued to the carrier.

**9. Stay in Contact.**

Stay in Contact with your reviewing investigator:

Mike Heenan

Special Investigator

Kansas Corporation Commission

620-338-0093

[m.heenan@kcc.ks.gov](mailto:m.heenan@kcc.ks.gov)

**10. Any questions about this review.**

If you have any questions concerning this report,, please contact the Kansas Corporation Commission 1500 SW Arrowhead Dr.  
Topeka, Ks 66604. 785-271-3151

**11. Acknowledgement of requirements and violations.**

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 Mahaffey Hauling LLC operating authority and/or the impoundment of Mahaffey Hauling 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](http://kcc.ks.gov/trans/penalty_assessment_table.htm)

X \_\_\_\_\_  
Printed

X \_\_\_\_\_  
Signed

X \_\_\_\_\_  
Investigator Printed

X \_\_\_\_\_  
Investigator(s) Signed

## **ATTACHMENT “B”**

# DRIVER'S TIME RECORD (150 air-mile radius)

Driver's Name (print)

Dan Mahaffey

Employee No. \_\_\_\_\_

Month

Oct

Year 2020

DRIVERS MAY PREPARE THIS REPORT INSTEAD OF "DRIVERS DAILY LOG" IF THE FOLLOWING APPLIES:

\*For Drivers NOT required to have a CDL.

\*Operates within 150 air-mile radius of the normal work reporting location.

\*Returns to normal work reporting location and is released from work within 14 consecutive hours.

\*At least 10 consecutive hours off duty separates each 14 hours on duty.

## INTERMITTENT DRIVERS

Shall complete this form for 7 days preceding any day driving is performed. This includes the preceding month.

Date	Start Time	End Time	Total Hours	Truck Number	Trip Information TO - FROM
1	<del>07A</del>				
2	<del>07A</del>				
3	7A	3p	8	002	Cherryvale, KS - Foster, MO
4	<del>07A</del>				
5	<del>07A</del>				
6	<del>07A</del>				
7	<del>07A</del>				
8	<del>07A</del>				
9	5:30A	12:30p	7	002	Cherryvale, KS - Prescott, KS
10	<del>07A</del>				
11	<del>07A</del>				
12	<del>07A</del>				
13	<del>07A</del>				
14	<del>07A</del>				
15	5:30A	11:30A	6	002	Cherryvale, KS - Foster, MO
16	<del>07A</del>				
17	<del>07A</del>				
18	<del>07A</del>				
19	<del>07A</del>				
20	<del>07A</del>				
21	<del>07A</del>				
22	<del>07A</del>				
23	<del>07A</del>				
24	<del>07A</del>				
25	<del>07A</del>				
26	<del>07A</del>				
27	<del>07A</del>				
28	<del>07A</del>				
29	<del>07A</del>				
30	<del>07A</del>				
31	7A	3p	8	002	Cherryvale, KS - Foster, MO

To be prepared monthly by each DOT certified driver unless time record is exclusively kept on Driver's Daily Log. Indicate "days off." Check box if no driving is performed during this month and the first 7 days of the following month. Mail this report to your Division Manager of Administration.

## **ATTACHMENT “C”**

## **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:** February 25, 2021

**SUBJECT: Docket No. 21-TRAM-323-PEN**  
In the Matter of the Investigation of Mahaffey Hauling LLC of Cherryvale,  
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:**

Mahaffey Hauling LLC (Mahaffey Hauling or Carrier) is a motor carrier possessing private and common operating authority from the Commission, primarily hauling machinery, large objects, logs, poles, beams, lumber, building materials, livestock, grain, feed and hay. Mahaffey Hauling operates under USDOT 3257454. On February 11, 2021, Commission Staff Special Investigator Michael Heenan conducted a safety compliance review of the operations of Mahaffey Hauling. As a result of this investigation, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$350.

### **DISCUSSION AND ANALYSIS:**

On February 11, 2021, Commission Staff Special Investigator Michael Heenan conducted a safety compliance review of the operations of Mahaffey Hauling. As a result of this investigation, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations.

#### **Violation One (1 of 2)**

On October 15, 2020, Mahaffey Hauling required or permitted its driver, Dan Mahaffey, to operate a CDL-required commercial motor vehicle, a 1999 Dodge Ram 3500 truck, VIN ending in 514212, GVWR 11,000 lbs., pulling a 2005 Golden trailer, VIN ending in 500, GVWR 20,000 lbs., in interstate commerce from Cherryvale, Kansas to Foster, Missouri. This trip is evidenced by Driver's Time Record. Mahaffey Hauling failed to make an inquiry every 12 months into the

annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The special investigator discovered two (2) violations of this type. Mahaffey Hauling'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. 66-1,112. Staff recommends a fine of \$250.

#### Violation Two (2 of 2)

During the transportation described in Violation One, above, Mahaffey Hauling failed to first designate a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The Carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

#### **RECOMMENDATION:**

Transportation Staff recommends the Commission find Mahaffey Hauling 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.

Additionally, Staff recommends a civil penalty of \$350 for two (2) 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 Mahaffey Hauling 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](http://kcc.ks.gov/trans/safety_meetings.htm).

Staff further recommends Mahaffey Hauling 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 Mahaffey Hauling 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**

21-TRAM-323-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 03/04/2021.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
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MATT MAHAFFEY, MANAGER  
MAHAFFEY HAULING LLC  
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CHERRYVALE, KS 67335-8842  
mmahaffey85@gmail.com

/S/ DeeAnn Shupe

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DeeAnn Shupe