

1500 SW Arrowhead Road
Topeka, KS 66604-4027

Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner



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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

January 27, 2015

15-TRAM-287-PEN

Chad Murphy, Managing Partner
M Bar M Farms, LLC
PO Box 331
Lyons, Kansas 67554

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 18, 2014, by Kansas Corporation Commission Special Investigator Doug Handy. For a full description of the penalty and process please refer to the Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

You have been assessed a \$250 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of dates and locations for the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

IF YOU CONTEST THE PENALTY:

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. Respondent must submit an original and seven (7) copies of the request to the Commission's Acting Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2013 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

Michael J. Duenes
Litigation Counsel
(785) 271-3181

2. Pursuant to K.S.A. 2013 Supp. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

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

II. BACKGROUND

4. M Bar M Farms, LLC (M Bar M Farms) obtained common operating authority from the Commission on March 5, 2013, and operates under KSMCID number 169521 and USDOT number 1636960.

5. Michael Murphy attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on February 18, 2013, on behalf of M Bar M Farms.

6. M Bar M Farms is a common motor carrier which primarily hauls general freight, lumber, livestock, paper products, metal, building materials, grain, feed, hay, construction, motor vehicles, machinery, large objects and commodities dry bulk.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on November 18, 2014, Commission Staff (Staff) Special Investigator Doug Handy conducted a compliance review of the operations of M Bar M Farms. 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, Mr. Handy identified one (1) violation of the Motor Carrier Safety Regulations.

- a. On September 24, 2014, M Bar M Farms required or permitted its driver, Michael L. Murphy, to operate a commercial motor vehicle, a 2000 Peterbilt, VIN ending in 502109, in interstate commerce from Miller, Nebraska to Lyons, Kansas. This trip is evidenced by Driver/Vehicle

Examination Report No. KS0SAB000240, dated September 24, 2014, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, M Bar M Farms had not made inquiry into the annual motor vehicle record (MVR) of its driver. The special investigator found two violations of this type. M Bar M Farms' 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), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2013 Supp. 66-1,112. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find M Bar M Farms committed one (1) violation 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.

9. Additionally, Staff recommends a civil penalty of \$250 for one (1) violation of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that M Bar M Farms be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

11. Finally, Staff recommends that M Bar M Farms submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

12. The Commission finds it has jurisdiction over M Bar M Farms because it is a motor carrier as defined in K.S.A. 2013 Supp. 66-1,108.

13. The Commission finds M Bar M Farms committed one (1) violation 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. M Bar M Farms, LLC, of Lyons, Kansas is hereby assessed a \$250 civil penalty for one (1) violation 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. M Bar M Farms is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, M Bar M Farms is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2013 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, to the Commission's Acting Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604 within fifteen (15) days from the date of

service of this Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of M Bar M Farms's right to a hearing, and this Penalty Order will become a Final Order assessing a \$250 civil penalty against M Bar M Farms, and ordering M Bar M Farms to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. A corporation shall not be permitted to enter an appearance, except by its attorney. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2).

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*


F. Failure to pay the \$250 civil penalty within thirty (30) days of the service of this Penalty Order, and/or failure to comply with the provisions of this Order, may result in revocation of M Bar M Farms's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: JAN 27 2015


ORDER MAILED JAN 28 2015

Neysa Thomas
Acting Secretary

MJD

ATTACHMENT “A”

Kansas Corporation Commission



US DOT #
1636960

Legal: M BAR M FARMS LLC
Operating (DBA):

MC/MX #:

State #:

Federal Tax ID:

(EIN)

Review Type: Compliance Review (CR)

Scope:

Principal Office

Location of Review/Audit: Company facility in the U. S.

Territory: F

Operation Types: Interstate Intrastate

Carrier: HM

HM

Shipper: N/A

N/A

Cargo Tank: N/A

Business: Corporation

Gross Revenue:

for year ending: 12/31/2013

Company Physical Address:

Contact Name: Chad Murphy

Phone numbers: (1)

E-Mail Address:

Company Mailing Address:

PO BOX 331

LYONS, KS 67554-0331

Carrier Classification

Authorized for Hire

Cargo Classification

General Freight

Logs, Poles, Beams, Lumber

Livestock

Paper Products

Metal: Sheets, Coils, Rolls

Building Materials

Grain, Feed, Hay

Construction

Motor Vehicles

Machinery, Large Objects

Commodities Dry Bulk

Hazardous Materials

9 Miscellaneous HM

Carried

Non-Bulk

Equipment

Owned Term Leased Trip Leased

Truck Tractor

2

0

0

Trailer

2

0

0

Power units used in the U.S.: 2

Percentage of time used in the U.S.: 100

Does carrier transport placardable quantities of HM? No

Is an HM Permit required? N/A

Driver Information

Inter

Intra

< 100 Miles:

>= 100 Miles:

2

Average trip leased drivers/month: 0

Total Drivers: 2

CDL Drivers: 2





M BAR M FARMS LLC
U.S. DOT #: 1636960

State #:

Review Date:
11/18/2014

Part A

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

1500 SW. Arrowhead Rd.
Topeka, Ks. 66604-4027

This report will be used to assess your safety compliance.

Person(s) Interviewed



Name: Chad Murphy

Title: Managing Partner

Name: Stephaine Murphy

Title: Partner



	M BAR M FARMS LLC	State #: 	Review Date:
	U.S. DOT #: 1636960		11/18/2014
Part B Violations			

1 FEDERAL	Primary: 391.21(a)	Discovered 1	Checked 2	Drivers/Vehicles In Violation 1	Checked 2
Description Using a driver who has not completed and furnished an employment application. Example Driver Michael L Murphy Trip Date 09/24/2014 Hire Date 04/01/2013 Ks. Level 2 Roadside Inspection #KS0SAB000240 Carrier could only provide part of the employment application that had a list of the previous employers. The application was missing the first page listing the information of the applicant providing the application.					
2 FEDERAL	Primary: 391.25(a)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
Description 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 once every 12 months. Example Driver Michael L Murphy Trip Date 09/24/2014 Hire Date 04/01/2013 Ks. Level 2 Roadside Inspection #KS0SAB000240 Carrier obtained an original MVR on 04/13/2013. The Driver qualification file provided no other MVR's that were obtained by the carrier.					
3 FEDERAL	Primary: 391.51(b)(5)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
Description Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Example Driver Michael L Murphy Trip Date 09/24/2014 Hire Date 04/01/2013 Ks. Level 2 Roadside Inspection #KS0SAB000240 Carrier failed to conduct the annual review for each drivers MVR in April 2014 as required by the regulations.					
4 FEDERAL	Primary: 391.51(b)(6)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
Description Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Example Driver Michael L Murphy Trip Date 09/24/2014 Hire Date 04/01/2013 Ks. Level 2 Roadside Inspection #KS0SAB000240 Carrier failed to have driver complete the certification of violations in April 2014 as required by the regulations.					





M BAR M FARMS LLC
U.S. DOT #: 1636960

State #:

Review Date:
11/18/2014

Part B Violations

Safety Fitness Rating Information:

Total Miles Operated 86,000
Recordable Accidents 0
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0

Number of Vehicle Inspected (CR): 0

OOS Vehicle (MCMIS): 0

Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

SATISFACTORY

Rating Factors

Acute Critical

Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	S	0	0
Factor 6:	S	-	-

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





M BAR M FARMS LLC
U.S. DOT #: 1636960

State #:

Review Date:
11/18/2014

Part B Requirements and/or Recommendations

1. A copy of your carrier profile can be obtained for \$20 from the SAFER website (<http://safer.fmcsa.dot.gov>) or by calling 800-832-5660 or 703 280-4001. You can also write: Computing Technologies Inc. P.O. Box 3248, Merrifield, VA 22116-3248. Profile cost if ordered by mail or phone is \$27.50.
2. Obtain a copy of each driver's driving record and review it annually.
3. 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.
4. 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 carrier's 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.
5. 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





M BAR M FARMS LLC
U.S. DOT #: 1636960

State #:

Review Date:
11/18/2014

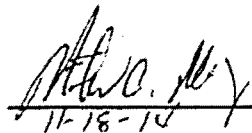
Part B Requirements and/or Recommendations

(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.

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/>.

6. 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 the Kansas Motor Carrier Safety Statutes and Regulations could result in suspension of M Bar M Farms, LLC operating authority and/or the impoundment of M Bar M Farms, LLC vehicles.


11-18-14

Michael C. Murphy, Managing Member
Date

7. Within 15 days send a letter to our office explaining your actions taken to remedy a non-compliance status. Mail to Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd., Topeka, Ks. 66604-4027



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Aspen 2.14.1.1



Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KS0SAB000240
Inspection Date: 09/24/2014
Start: 11:41:00 AM CT End: 12:01:00 PM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

M BAR M FARMS LLC

Driver: MURPHY, MICHAEL L
License#: State: AR

Date of Birth:

CoDriver:

License#: State:

Date of Birth:

Shipper:

USDOT#: 01636960

Phone#:

MC/MX#:

Fax#:

State#:

Location: PHILLIPS COUNTY - 147

MilePost: 213

Highway: U183

Origin: MILLER, NE

Bill of Lading:

County: PHILLIPS, KS

Destination: LYONS, KS

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TT	PTRB	2000	KS			502109	50,000			
2	ST	TRAO	2014	OK			3510796	80,000			

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS: No Violations Were Discovered.

HazMat: No HM Transported.

Placard: No

Cargo Tank:

Special Checks: No Data for Special Checks.

*NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

Signature Of Repairer X _____ Facility _____ Date: _____

**DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. **IF

corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

Signature Of Motor Carrier X *Michael Murphy* Title *Owner* Date: *9-25-14*

Report Prepared By

C.A. OSTHOFF

Badge #

0363

Copy Received By

MICHAEL MURPHY

Page 1 of 1



01636960 KS KS0SAB000240

IN RE: DOCKET NO. 15-TRAM-287-PEN

DATE JAN 27 2015

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
MICHAEL DUENES, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
CHAD MURPHY, MANAGING MEMBER M BAR M FARMS, LLC PO BOX 331 LYONS, KS 67554-0331		

ORDER MAILED JAN 28 2015

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.