

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

January 11, 2018

18-TRAM-278-PEN

Matthew D. Hunter, Managing Member
Affordable Tree Service, LLC
2158 S 17th Street
Independence, Kansas 67301

This is a notice of a penalty assessment against Affordable Tree Service, LLC (Affordable Tree Service) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on December 12, 2017, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalty amounts are assessed in accordance with the FY 2018 Uniform Penalty Assessment Matrix, approved by the Commission on June 27, 2017. For a full description of the penalty and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

Affordable Tree Service has been assessed a \$350 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$350 through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

AFFORDABLE TREE SERVICE IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed may be available if:

- (1) within fifteen (15) days from the date of this Penalty Order, the carrier signs and submits the attached Reduced Penalty Agreement to Litigation Counsel at the above address;
- (2) within thirty (30) days from the date of this Penalty Order, the carrier submits to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) described in the attached 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;
- (3) within thirty (30) days from the date of this Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter; and
- (4) within eighteen (18) months from the date of this Penalty Order, the carrier must submit to a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for a fifty-percent (50%) reduced penalty, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above may be issued by the Commission. Payment of the reduced penalty of \$175 would be due within 30 days from the date of service of the Order Amending Penalty Assessment.

IF YOU CONTEST THE PENALTY ORDER:

You have the right to request a hearing if you contest the terms of the Penalty Order. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Affordable Tree Service, LLC must file within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

IF YOU FAIL TO ACT:

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$350 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within 15 days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If Affordable Tree Service submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$175 and that payment would become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,



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

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



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Sam Brownback, Governor

REDUCED PENALTY AGREEMENT

18-TRAM-278-PEN

Affordable Tree Service, LLC (Affordable Tree Service) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated January 11, 2018. Affordable Tree Service has agreed to comply with the following terms and obligations:

1. Affordable Tree Service has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Affordable Tree Service will, within thirty (30) days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. Affordable Tree Service will, within thirty (30) days from the date of the Penalty Order, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.
4. Affordable Tree Service will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Affordable Tree Service, LLC understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$175, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Affordable Tree Service will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2018.

Affordable Tree Service, LLC

Matthew D. Hunter
Managing Member

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to v.jacobsen@kcc.ks.gov and alatif@kcc.ks.gov.)

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

Before Commissioners: Pat Apple, Chairman
 Shari Feist Albrecht
 Jay Scott Emler

In the Matter of the Investigation of **Affordable**)
Tree Service, LLC, of Independence, Kansas,)
Regarding the Violation of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 18-TRAM-278-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. 2016 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 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 K.S.A. 2016 Supp. 66-1,108, 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. 2016 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. Affordable Tree Service, LLC (Affordable Tree Service) has private operating authority with the Commission and further operates under USDOT number 2812225.

5. Matthew D. Hunter attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on December 1, 2015, on behalf of Affordable Tree Service.

6. Affordable Tree Service is a private motor carrier which primarily hauls tree limbs and firewood.

7. Affordable Tree Service is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on December 12, 2017, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of Affordable Tree Service. A copy of the safety compliance review is attached hereto as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On August 24, 2017, Affordable Tree Service required or permitted its driver, Tony R. Ainesworth, to operate a CDL-required commercial motor vehicle, a 1991 Ford F800 bucket truck, VIN ending in 24376, GVWR greater than 33,000 lbs., in and around the area of Independence, Kansas. This trip is evidenced by Mr. Ainesworth's time record, a copy of which is

attached hereto as Attachment “B” and is hereby incorporated by reference.

At the time of this transportation, Affordable Tree Service failed to obtain a copy of the motor vehicle record (MVR) of the driver within 30 days of hiring to see if the driver had a valid CDL before operating the commercial motor vehicle. The carrier’s failure to obtain a copy of the MVR of its driver within 30 days of employment and maintain the MVR in the driver qualification file pursuant to 49 C.F.R. 391.51 is a violation of 49 C.F.R. 391.23(a)(1) and (b), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, Affordable Tree Service failed to obtain and document a successful periodic (annual) inspection on the commercial motor vehicle operated during the preceding 12-month period. The carrier’s failure to conduct periodic (annual) inspections on its commercial motor vehicle is a violation of 49 C.F.R. 396.17(c), adopted by K.A.R. 82-4-3j, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Affordable Tree Service committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Staff recommends a civil penalty of \$350 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Affordable Tree Service, LLC is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends Affordable Tree Service, LLC submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that a representative from Affordable Tree Service attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

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

V. CONCLUSIONS OF LAW

15. The Commission finds it has jurisdiction over Affordable Tree Service because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$350 should be assessed to Affordable Tree Service for committing two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

17. The Commission finds Affordable Tree Service is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Affordable Tree Service, LLC, of Independence, Kansas is hereby assessed a penalty of \$350 for two (2) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations. Payment of \$350 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

B. A representative from Affordable Tree Service is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

C. Affordable Tree Service must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described above, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Affordable Tree Service is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

E. If Affordable Tree Service does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$350 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Affordable Tree Service's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. On January 11, 2018, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744608. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

G. **Pursuant to K.S.A. 2016 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Affordable Tree Service's right to a hearing.

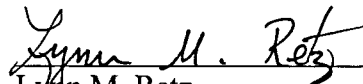
H. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

I. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: JAN 11 2018


Lynn M. Retz
Secretary to the Commission


AAL

Order Mailed Date

JAN 12 2018

ATTACHMENT "A"

Kansas Corporation Commission

	US DOT # 2812225	Legal: AFFORDABLE TREE SERVICE, 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: C		
Operation Types Interstate Intrastate						
Carrier: N/A HM		Business: Corporation				
Shipper: N/A N/A		Gross Revenue: for year ending: 12/31/2016				
Cargo Tank: N/A						
Company Physical Address: <div style="background-color: black; height: 30px; width: 100%;"></div>						
Contact Name: Matthew D Hunter Phone numbers: (1) (2) Fax E-Mail Address:						
Company Mailing Address: 2158 S 17TH INDEPENDENCE, KS 67301-8926						
Carrier Classification Private Property						
Cargo Classification Other: Tree limbs, firewood						
Hazardous Materials 9 Miscellaneous HM Carried Non-Bulk						
Equipment						
	Owned Term Leased Trip Leased			Owned Term Leased Trip Leased		
Truck	1	0	0			
Power units used in the U.S.: 1 Percentage of time used in the U.S.: 100						
Does carrier transport placardable quantities of HM? No						
Is an HM Permit required? N/A						
Driver Information						
	Inter	Intra	Average trip leased drivers/month: 0			
< 100 Miles:		1	Total Drivers: 1			
>= 100 Miles:			CDL Drivers: 1			



AFFORDABLE TREE SERVICE LLC
U.S. DOT #: 2812225

State #: [REDACTED]

Review Date:
12/12/2017

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:

Kansas Corporation Commission
1500 SW Arrowhead Rd
Topeka, Ks 66604-4027 1-785-271-3145

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Matthew D Hunter

Title: Owner/opereator

Name:

Title:



	AFFORDABLE TREE SERVICE LLC	Review Date:
	U.S. DOT #: 2812225	12/12/2017

Part B Violations

1 STATE	Primary: 391.51(b)(2) CFR Equivalent: 391.51(b)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1 Checked 1
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Description
 Driver Investigation History file must contain a copy of the response by each State agency concerning a driver's driving record pursuant to §391.23(a)(1);

Example
 Driver name: [REDACTED]
 Trip date: 8-24-17
 At the time of this trip, and the time of this review, the above driver is a contracted CDL driver that works only when needed and worked on the above date driving the 33000 lb. GVWR bucket truck. The above driver sometimes only works 2 to 4 times a month. The job was the [REDACTED] 5 miles west of Independence Ks.
 The above driver was hired on 3/14/17 and the carrier failed to obtain his MVR within 30 days of his hiring.
 At the time of this review, the carrier could not provide any MVR for the above driver. The driver was hired nearly 9 months prior to this review.

2 STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1 Checked 1
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Description
 Using a commercial motor vehicle not periodically inspected.

Example
 Driver name: [REDACTED]
 Trip date: 8-24-17
 At the time of this trip, and the time of this review, the above driver was using the bucket truck listed below.
 1991 Ford 33000 lb. GVWR bucket truck
 VIN # [REDACTED] 24376
 At the time of this trip, and the time of this review, the above truck was operated on the above date and had no periodic annual inspection. The carriers small 1/2 ton truck and trailer were under Kansas State weight requirements for CMV and were not subject. The carrier could not produce any annual inspection on the above CMV.

Safety Fitness Rating Information: <table style="width:100%"> <tr> <td style="width:60%;">Total Miles Operated</td> <td style="text-align: right;">2,400</td> </tr> <tr> <td>Recordable Accidents</td> <td style="text-align: right;">0</td> </tr> </table>	Total Miles Operated	2,400	Recordable Accidents	0	<table style="width:100%"> <tr> <td>OOS Vehicle (CR): 0</td> </tr> <tr> <td>Number of Vehicle Inspected (CR): 0</td> </tr> <tr> <td>OOS Vehicle (MCMIS): 0</td> </tr> <tr> <td>Number of Vehicles Inspected (MCMIS): 0</td> </tr> </table>	OOS Vehicle (CR): 0	Number of Vehicle Inspected (CR): 0	OOS Vehicle (MCMIS): 0	Number of Vehicles Inspected (MCMIS): 0
Total Miles Operated	2,400								
Recordable Accidents	0								
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 :

This Review is not Rated.



AFFORDABLE TREE SERVICE LLC
U.S. DOT #: 2812225

State #: XXXXXXXXXX

Review Date:
12/12/2017

Part B Requirements and/or Recommendations

1. Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
2. Carriers need to be certain they have periodic annual inspections on all trucks, truck tractors, and trailers that are qualified as Commercial Motor Vehicles under 49 C.F.R.
3. For all Investigations:
 - **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
 - **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
 - **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
 - **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.
The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>
 - All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. 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 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.
For all Investigations that could result in a Notice of Claim:
 - **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. 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 any subsequent Notice of Claim. Your signature for receipt of this report





AFFORDABLE TREE SERVICE LLC
U.S. DOT #: 2812225

State #: [REDACTED]

Review Date:
12/12/2017

Part B Requirements and/or Recommendations

acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record.

Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

US Department of Transportation
Federal Motor Carrier Safety Administration
Kansas Division
Jeff Ellett - Division Administrator
1303 First American Place, Suite 200
Topeka, KS 66604-4040

For all Investigations where the carrier has been involved in 2 or more recordable 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:

US Department of Transportation
Kansas Division
Jeff Ellett - Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

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

For all Investigations resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

US Department of Transportation
Jack Van Steenburg - Chief Safety Officer
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Part 385.17 (copy provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

US Department of Transportation
Max Strathman - Midwestern Field Administrator
Federal Motor Carrier Safety Administration
4749 Lincoln Mall Drive, Suite 300-A
Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation
Kansas Division





AFFORDABLE TREE SERVICE LLC
U.S. DOT #: 2812225

State #: [REDACTED]

Review Date:
12/12/2017

Part B Requirements and/or Recommendations

Jeff Elliott – Division Administrator
Federal Motor Carrier Safety Administration
1303 First American Place, Suite 200
Topeka, KS 66604-4040

This letter should be submitted as soon as possible.

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

4. Maintain letters or certificates of qualifications for all persons performing annual periodic inspections on commercial motor vehicles.
5. Make certain that your USDOT number is updated at least every other year as required by the last digit of your USDOT number.
6. Make certain that all drivers of commercial motor vehicles have a record check of their driving record at least every 12 months and within 30 days of their initial employment.
7. 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.
8. 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 [Affordable Tree Service LLC) operating authority and/or the impoundment of [Affordable Tree Service LLC) vehicles.

Carrier Signature 





AFFORDABLE TREE SERVICE LLC

U.S. DOT #: 2812225

State #: [REDACTED]

Review Date:

12/12/2017

Part B Requirements and/or Recommendations

Investigator Signature M. W. Heenan 8213

9. " 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 website:
http://kcc.ks.gov/trans/penalty_assessment_table.htm"

Carrier Signature [Signature]

Investigator Signature M. W. Heenan 8213



ATTACHMENT "B"

Employee

1201 1st Ave. South

Month Aug Job Year 2017

Monday 21 In Out

Hrs.

In

Tuesday 22 Out

Hrs.

In

Wednesday 23 0.5 In Out 9:30 - 05

Hrs.

In 8:00

Thursday 24 6:00 Out 2:00

Hrs. 6:00

Bucket Truck

In

Friday 25 Out

Hrs.

In

Saturday 26 Out

Hrs.

Total Hours 6

Equipment 180

180

275

CERTIFICATE OF SERVICE

18-TRAM-278-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on JAN 11 2018.

MATTHEW D. HUNTER, MANAGING MEMBER
AFFORDABLE TREE SERVICE, LLC
2158 S 17TH STREET
INDEPENDENCE, KS 67301-8926
mattsats@yahoo.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe

DeeAnn Shupe

Order Mailed Date

JAN 12 2018