

**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 Emergency Suspension of      )  
Operating Authority of **Benyshek Trucking &**      )  
**Harvesting LLC of Belleville, Kansas,** for      )      Docket No. 21-TRAM-464-OOS  
Failure to Comply with New Entrant Safety      )  
Requirements as Required by the Motor Carrier      )  
Safety Statutes, Rules and Regulations.      )

**ORDER REINSTATING MOTOR CARRIER OPERATING AUTHORITY**

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission) upon its own motion. The Commission, being fully advised in the premises, finds 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, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 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, and amendments thereto, 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. Pursuant to K.S.A. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-3f) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

## **II. BACKGROUND**

4. Benyshek Trucking & Harvesting LLC is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f, that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

5. Benyshek Trucking & Harvesting LLC is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 3599735.

6. The Commission received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that Benyshek Trucking & Harvesting LLC's New Entrant Registration had been revoked effective June 14, 2021, for failure to comply with safety requirements.

7. Pursuant to the above authority, on June 24, 2021, the Commission entered an Emergency Suspension of Operating Authority Order on Benyshek Trucking & Harvesting LLC in the above-referenced docket, until such time that Staff recommended reinstatement.

## **III. STAFF'S RECOMMENDATION**

8. Staff submitted a Report and Recommendation (R&R), dated August 9, 2021 attached hereto as Attachment "A" and is hereby incorporated by reference. In its R&R, Staff made recommendations regarding Carrier.

9. On July 27, 2021, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, that Benyshek Trucking & Harvesting LLC has submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 3599735 has been approved and the carrier's authority to operate in interstate operations has been reinstated. *See* attached FMCSA reinstatement documentation, which is attached hereto as Attachment "B" and is hereby incorporated by reference

10. Carrier further submitted evidence of attendance at a Kansas Corporation Commission-sponsored safety seminar. Randy Hart attended on August 6, 2021.

11. Based on the Federal Motor Carrier Safety Administration's reinstatement, it is Staff's recommendation to reinstate Benyshek Trucking & Harvesting LLC's motor carrier operating authority in Kansas.

#### **IV. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over Benyshek Trucking & Harvesting LLC because it is a motor carrier, as defined in 49 C.F.R. 390.5 and as adopted by K.A.R. 82-4-3f.

13. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Benyshek Trucking & Harvesting LLC's operating authority in Kansas is reasonable.

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

A. Benyshek Trucking & Harvesting LLC's certificate, permit or license that is necessary to carry on the business of a private and/or public motor carrier in Kansas is hereby reinstated.

**BY THE COMMISSION IT IS SO ORDERED.**

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 08/12/2021



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Lynn M. Retz  
Executive Director

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## **ATTACHMENT “A”**

## **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:** June 21, 2021

**SUBJECT: Docket No. 21-TRAM-464-OOS**  
In the Matter of the Emergency Suspension of Operating Authority of **Benyshek Trucking & Harvesting LLC of Belleville, Kansas**, for Failure to Comply with New Entrant Safety Requirements as Required by the Motor Carrier Safety Statutes, Rules and Regulations.

### **EXECUTIVE SUMMARY:**

Benyshek Trucking & Harvesting LLC (Carrier) is a private motor carrier, primarily hauling general freight, machinery, large objects, livestock, grain, feed and hay. Carrier operates under United States Department of Transportation (USDOT) No. 3599735.

On June 24, 2021, the Commission entered an Emergency Suspension of Operating Authority Order on Carrier in the above-referenced docket, until such time that Staff recommended reinstatement.

On July 27, 2021, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, that Carrier had submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 3599735 has been approved and the carrier's authority to operate in interstate operations has been reinstated.

The carrier also attended a Commission Sponsored Safety Seminar on August 6, 2021.

Based on the Federal Motor Carrier Safety Administration's reinstatement, Staff recommends reinstatement of Carrier's motor carrier operating authority in Kansas.

### **DISCUSSION AND ANALYSIS:**

K.S.A. 66-1,129a states:

- a) The commission, at any time for good cause shown, may suspend the operation of any motor carrier subject to economic or safety rules and regulations adopted by the commission. Upon notice and an opportunity to be heard in accordance

with the provisions of the Kansas administrative procedure act, the commission may revoke, amend, initiate sanctions or fine any motor carrier who has a certificate, license or permit issued by the commission or is subject to the safety rules and regulations adopted by the commission. Any motor carrier suspended prior to a hearing must be afforded the opportunity of a hearing on the matter. If such a hearing is requested, the hearing shall be held within 10 days of the request.

On June 3, 2021, the FMCSA forwarded a notice of violation(s) of the federal motor carrier safety regulations to Carrier, wherein Carrier was given 10 days to comply with the regulations. On June 14, 2021, FMCSA records indicate Carrier had not complied with new entrant requirements. As a result, the FMCSA issued Carrier an Order to Revoke “New Entrant” Registration and Cease All Interstate Transportation.

On June 24, 2021, the Commission entered an Emergency Suspension of Operating Authority Order on Carrier in the above-referenced docket, until such time that Staff recommended reinstatement.

On July 27, 2021, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, that Carrier had submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier’s reapplication for New Entrant registration under USDOT No. 3599735 has been approved and the carrier’s authority to operate in interstate operations has been reinstated.

**RECOMMENDATION:**

Based on the Federal Motor Carrier Safety Administration’s reinstatement and the fact the Carrier has attended a safety seminar, it is Staff’s recommendation to reinstate Carrier’s motor carrier operating authority in Kansas.

## **ATTACHMENT “B”**





U.S. Department of  
Transportation  
**Federal Motor  
Carrier Safety  
Administration**

1200 New Jersey Ave., S.E.  
Washington, DC 20590  
July 26, 2021

RICHARD A BENYSHEK  
PARTNER  
BENYSHEK TRUCKING & HARVESTING LLC  
710 M ST  
BELLEVILLE, KS 66935

In reply refer to:  
USDOT Number: 3599735

**Action Required: Call to schedule a Safety Audit.**

According to Federal Motor Carrier Safety Administration's (FMCSA) records thirty days have elapsed since BENYSHEK TRUCKING & HARVESTING LLC's USDOT New Entrant registration was revoked on June 14, 2021, and that BENYSHEK TRUCKING & HARVESTING LLC has reapplied in accordance with 49 CFR 385.329. This is to inform BENYSHEK TRUCKING & HARVESTING LLC that BENYSHEK TRUCKING & HARVESTING LLC's reapplication for USDOT New Entrant registration has been approved.

A safety audit has not yet been conducted; BENYSHEK TRUCKING & HARVESTING LLC should contact your local State Motor Carrier Safety Assistance Program (MCSAP) office 785-296-8533 as soon as possible to schedule a safety audit. In accordance with 49 CFR section 385.337, failure to permit a safety audit to be performed may result in the revocation of BENYSHEK TRUCKING & HARVESTING LLC's USDOT New Entrant registration and BENYSHEK TRUCKING & HARVESTING LLC's interstate operation being placed out of service. Additionally, the refusal to submit to a safety audit may also subject a new entrant motor carrier to the penalty provisions in 49 U.S.C. 521(b) (2) (A), as adjusted by inflation.

BENYSHEK TRUCKING & HARVESTING LLC's 18-month new entrant safety monitoring period restarts as of July 26, 2021. FMCSA will continue to monitor and evaluate BENYSHEK TRUCKING & HARVESTING LLC's safety management practices and on-road performance to ensure BENYSHEK TRUCKING & HARVESTING LLC has basic safety management controls that are operating effectively and is complying with Federal requirements including the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Federal Hazardous Materials Regulations (HMRs). Failure to comply with applicable requirements may result in the revocation of BENYSHEK TRUCKING & HARVESTING LLC's USDOT New Entrant or permanent registration.

BENYSHEK TRUCKING & HARVESTING LLC's USDOT number can be found in the upper right hand corner of this letter. This USDOT number should be marked on commercial motor vehicles operated by BENYSHEK TRUCKING & HARVESTING LLC as required by 49 CFR section 390.21. A copy of the FMCSRs, including this regulation, may be found on the FMCSA web site, <http://safer.fmcsa.dot.gov>.

Sincerely,

Joseph P. DeLorenzo, Director, Office of  
Enforcement and Compliance

## **CERTIFICATE OF SERVICE**

21-TRAM-464-OOS

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of  
first class mail and electronic service on 08/12/2021.

RICHARD ALAN BENYSHEK, MEMBER  
BENYSHEK TRUCKING & HARVESTING LLC  
710 M STREET  
BELLEVILLE, KS 66935-1550  
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AHSAN LATIF, LITIGATION COUNSEL  
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/S/ DeeAnn Shupe  
DeeAnn Shupe