

1500 SW Arrowhead Road
Topeka, KS 66604-4027



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

Dwight D. Keen, Chair
Shari Feist Albrecht, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
20-TRAM-289-PEN

January 9, 2020

Lisha Wolf, Member
Bar W Trucking, LLC
695 N 180th Rd
Bennington, KS 67442

This is a notice of a penalty assessment against Bar W Trucking, LLC (Bar W Trucking) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 20, 2019, by Kansas Corporation Commission Special Investigator Gregory Askren. Penalties are assessed in accordance with the FY 2020 Uniform Penalty Assessment Matrix, approved by the Commission on July 16, 2019. 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: Bar W Trucking has been assessed a \$250 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$250, 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.

The attached Order requires a representative of Bar W Trucking 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. The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

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. Bar W Trucking 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. K.A.R. 82-1-215; K.S.A. 2018 Supp. 77-542.

IF YOU FAIL TO ACT: Failure to pay the penalty of \$250 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,

Ahsan A. Latif
Litigation Counsel
(785) 271-3118

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

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Susan K. Duffy

In the Matter of the Investigation of **Bar W**)
Trucking, LLC, of Bennington, KS, Regarding)
the Violation(s) of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 20-TRAM-289-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 2018 Supp. 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 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. 2018 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 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. Bar W Trucking, LLC (Bar W Trucking) has common operating authority with the Commission and further operates under USDOT number 1402294.

5. Bar W Trucking is a common motor carrier which primarily hauls grain, feed, hay and livestock.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on November 20, 2019, Commission Staff (Staff) Special Investigator Gregory Askren conducted a safety compliance review of the operations of Bar W Trucking. 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 one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 27, 2019, Bar W Trucking required or permitted its driver, Joseph Enterkin, to operate a CDL-required commercial motor vehicle, a 2006 Kenworth, VIN ending in 43418, GVWR 52,000 lbs., pulling a 2012 Wilson trailer, VIN ending in 022356, GVWR 68,000 lbs., in interstate commerce from Kingman, Kansas to Timple, Texas. This trip is

evidenced by Driver/Vehicle Examination Report Number OKH400152044, dated May 27, 2019, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Bar W Trucking failed to obtain its driver’s motor vehicle record (MVR) within 30 days of employment. The special investigator discovered two (2) violations of this type. The carrier’s failure to obtain MVRs on its drivers within 30 days of employment and maintain the MVRs in the driver qualification files 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. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

7. Based upon the available facts, Staff recommends the Commission finds Bar W Trucking committed one (1) 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.

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

9. Staff further recommends that a representative from Bar W Trucking 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.

10. Finally, Staff recommends that Bar W Trucking 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

11. The Commission finds it has jurisdiction over Bar W Trucking 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.

12. The Commission finds Bar W Trucking committed one (1) 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. Bar W Trucking, LLC, of Bennington, KS is hereby assessed a \$250 civil penalty for one (1) 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. Bar W Trucking 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.

D. Bar W Trucking 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. 2018 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. 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 Bar W Trucking's right to a hearing, and this Penalty Order will become a Final Order assessing a \$250 civil penalty against Bar W Trucking, and ordering a representative from Bar W Trucking 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, and to submit to a safety compliance review within 18 months from the date of this 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. K.S.A. 2018 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$250 is due in thirty (30) days from the date of service of this Order. Payment of \$250 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.

H. Failure to pay the \$250 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Bar W Trucking'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 revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

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.

Keen, Chair; Albrecht, Commissioner; Duffy, Commissioner

Dated: 01/09/2020




Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION

	U.S. DOT#: 1402294 MC/MX#: 534621		Legal: BAR W TRUCKING LLC Operating (DBA):		Investigation Date: 12/23/19
	Investigation Type: Onsite Comprehensive Investigation		Location of Investigation: Company principal place of business (PPOB) Extent of Operations: Entire Operation		
Physical Address			Mailing Address		
695 N 180TH RD BENNINGTON, KS 67422-9048 United States			695 N 180TH RD BENNINGTON, KS 67422-9048 United States		
Contact Information					
Contact Name: LISHA WOLF					
Email: [REDACTED]					
Phone: [REDACTED]					
Business and Financial					
Business Type: Limited Liability Corporation					
Gross Revenue: [REDACTED] For Year Ending: 12/31/19					
Federal Tax ID: [REDACTED]					
Operation Classification and Type			Cargo		
Type of Operation: Non-HM Interstate Carrier			Grain, Feed, Hay, Livestock		
Operation Classification For-Hire Motor Carrier Property Exempt Commodities					
Equipment			Driver Information		
	Owned	Term Leased	Drivers		
				Intrastate	Interstate
Power units used in the U.S.: Percentage of time used in the U.S.: %			< 100 Miles		
			>= 100 Miles		
			10		
			Average trip leased driver/month: 0 Drivers with CDL: 9 Total Drivers: 10		

Person(s) Interviewed**Name:** LISHA WOLF**Title:** MEMBER**Questions**

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at.

1303 SW FIRST AMERICAN PLACE, SUITE 200
TOPEKA, KS 66604-4040
Phone: (785) 271-1260
Fax: (785) 228-9725

This report will be used to assess your safety compliance.

Violations

<p>1. Primary: 391.51(b)(2)</p> <p>Failing to maintain inquiries into driver's driving record in driver's qualification file.</p> <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; border-radius: 50%; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin-right: 10px;"> C </div> <div> <p>Critical</p> <p>At least 10% of the number checked had violations</p> </div> </div>	<p>Violations Discovered</p> <table border="1" style="width: 100%;"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td>2</td> <td></td> <td>2</td> </tr> </table> <p>Violations Checked</p> <table border="1" style="width: 100%;"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td>2</td> <td></td> <td>2</td> </tr> </table>	Fed	State	Total	2		2	Fed	State	Total	2		2	<p>BASIC Impacted</p> <p>Driver Fitness</p>	<p>Rating Factor 2:</p> <p>Driver = Part 391</p>
Fed	State	Total													
2		2													
Fed	State	Total													
2		2													
<p>Example/Notes:</p> <p>Driver name, Joseph Enterkin</p> <p>Trip date.- 5/27/2019</p> <p>Description of violation - Failing to maintain inquiries into driver's driving record in driver's qualification file. Failing to check MVR within 30 days of hiring.</p>		<p>Drivers/Vehicles</p> <table border="1" style="width: 100%;"> <tr> <th>In Violation</th> <th>Checked</th> </tr> <tr> <td>2</td> <td>2</td> </tr> </table>		In Violation	Checked	2	2								
In Violation	Checked														
2	2														

<p>2. Primary: 382.305(i)(2)</p> <p>Failing to ensure that each driver subject to random alcohol and controlled substances testing has an equal chance of being selected each time selections are made.</p>	<p>Violations Discovered</p> <table border="1" style="width: 100%;"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td>1</td> <td></td> <td>1</td> </tr> </table> <p>Violations Checked</p> <table border="1" style="width: 100%;"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td>5</td> <td></td> <td>5</td> </tr> </table>	Fed	State	Total	1		1	Fed	State	Total	5		5
Fed	State	Total											
1		1											
Fed	State	Total											
5		5											
<p>Example/Notes:</p> <p>Alan Temple</p> <p>9/26/2019</p> <p>Trip date - 11/13/2019</p>	<p>Drivers/Vehicles</p> <table border="1" style="width: 100%;"> <tr> <th>In Violation</th> <th>Checked</th> </tr> <tr> <td>1</td> <td>5</td> </tr> </table>	In Violation	Checked	1	5								
In Violation	Checked												
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<p>3. Primary: 391.45(a)</p> <p>Secondary: 391.11(a)</p> <p>Using a driver not medically examined and certified.</p>	<p>Violations Discovered</p> <table border="1" style="width: 100%;"> <tr> <th>Fed</th> <th>State</th> <th>Total</th> </tr> <tr> <td></td> <td>1</td> <td>1</td> </tr> </table> <p>Violations Checked</p>	Fed	State	Total		1	1
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Fed	State	Total					
	5	5					
Example/Notes: Driver name, Ryan Kubick Trip date, 5/10/2019 Description of violation - Kubick's medical card expired 12/18/2018 and was renewed on 5/22/2019.	Drivers/Vehicles <table border="1"> <tr> <th>In Violation</th><th>Checked</th></tr> <tr> <td>1</td><td>5</td></tr> </table>	In Violation	Checked	1	5		
In Violation	Checked						
1	5						

4. 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 <table border="1"> <tr> <th>Fed</th><th>State</th><th>Total</th></tr> <tr> <td>3</td><td></td><td>3</td></tr> </table> Violations Checked <table border="1"> <tr> <th>Fed</th><th>State</th><th>Total</th></tr> <tr> <td>3</td><td></td><td>3</td></tr> </table>	Fed	State	Total	3		3	Fed	State	Total	3		3
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Fed	State	Total											
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Example/Notes: Driver name, Luke Lawless Trip date, 8/16/2019 Description of violation: Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a)	Drivers/Vehicles <table border="1"> <tr> <th>In Violation</th><th>Checked</th></tr> <tr> <td>3</td><td>3</td></tr> </table>	In Violation	Checked	3	3								
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5. Primary: 391.51(b)(5) Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).	Violations Discovered <table border="1"> <tr> <th>Fed</th><th>State</th><th>Total</th></tr> <tr> <td>3</td><td></td><td>3</td></tr> </table> Violations Checked <table border="1"> <tr> <th>Fed</th><th>State</th><th>Total</th></tr> <tr> <td>5</td><td></td><td>5</td></tr> </table>	Fed	State	Total	3		3	Fed	State	Total	5		5
Fed	State	Total											
3		3											
Fed	State	Total											
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Example/Notes: Driver name, Joseph Enterkin Trip date, 11/14/2019 on an interstate trip from Perryton, TX to Cherokee OK to Grainfield, Ks. Description of violation	Drivers/Vehicles <table border="1"> <tr> <th>In Violation</th><th>Checked</th></tr> <tr> <td>3</td><td>5</td></tr> </table>	In Violation	Checked	3	5								
In Violation	Checked												
3	5												

6. Primary: 391.51(b)(6)

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

Violations Discovered

Fed	State	Total
3		3

Violations Checked

Fed	State	Total
3		3

Example/Notes:

Driver name, Ryan Kubick

Trip date, 11/5/2019

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

Drivers/Vehicles

In Violation	Checked
3	3

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	Conditional		1
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): 1 OOS Rate: 0%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Not Rated		
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: Recordable Accidents: 0 Recordable Accidents/Million Miles: NaN	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>.

Process Breakdown and Remedies

BASIC: Controlled Substances/Alcohol

Process Breakdown: Monitoring and Tracking

Bar W Trucking LLC failed to do a pre-employment drug test on 1 of 2 new hires in 2019.

Specific Recommended Remedies

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

1. Evaluate personnel who are monitoring drivers against performance standards related to controlled-substance and alcohol regulations and company policies to ensure that they are applying standards fairly, consistently, and equitably, and are documenting evaluations.
2. Monitor and adjust the testing program to ensure proper annual driver sampling
3. Provide adequate oversight of all personnel hiring and training processes, including qualification of service agents, to ensure adherence to controlled-substance and alcohol regulations and company policies and procedures.
4. When monitoring and tracking issues regarding controlled substances and alcohol use, always assess whether they are individual or represent a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

Bar W Trucking LLC failed to check the annual MVR and reviews.

Specific Recommended Remedies

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

1. Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
2. When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

BASIC: Driver Fitness

Process Breakdown: Monitoring and Tracking

- Bar W trucking had 1 driver that had a gap of 5 months from when is medical card expired and a new medical card was issued.

Specific Recommended Remedies

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

1. Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures

Recommendations

1. **Acute and Critical Violations**

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

NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six-year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six-year period.

2. **Additional Information**

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

3 **For All Investigations Intra, Satisfactory, no PO #**

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.

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,

- 3 (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail or email the letter along with copies of your supporting evidence to:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027
g.davenport@kcc.ks.gov

4. **Obtain copies of the regulations, forms, interpretations, manuals.**

Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. www.fmcsa.dot.gov/safety-security/eta/index.htm

5. **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](https://portal.fmcsa.dot.gov/login)).

6. **Conduct periodic internal reviews. (non-HM)**

Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.

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

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

8. **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.

9. **10-year driver employment history required.**

Ensure that drivers provide a 10-year employment history on their employment application.

10 **Maintain all required controlled substance testing records.**

Maintain all required alcohol and controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR .

11. **Do not require or permit drivers to use radar detectors.**

Use of radar detectors or similar devices on commercial vehicles is illegal. Do not require or permit drivers to use them. Take appropriate disciplinary action against drivers if they are using such devices.

12. **Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov> . Implementation begins January 6, 2020.

13 **Mechanics Certifications**

Maintenance Ensure that you have on file a mechanics certification from mechanics that conduct your annual inspections.

14 **CAP Requirement**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov
FAX: 785-271-3124

or mail:

Kansas Corporation Commission
Attn: Gary Davenport
1500 SW Arrowhead Rd
Topeka, KS 66604-4027T

15. **Safety Seminar**

Motor carriers are responsible for complying with all tasks ordered by the Commission in its Penalty Order. In addition to paying any civil fines issued, you are also required to attend a Commission sponsored safety seminar. Failure to fulfill this requirement may lead to the issuance of further penalties or other repercussions, including revocation of authority to operate intrastate in Kansas.

16. Amber required

I acknowledge that these requirements/violations 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 Bar W Trucking LLC vehicles operating authority and/or the impoundment of Bar W Trucking LLC vehicles. Signed *[Signature]*

Date 12-27-19

ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

OKLAHOMA HIGHWAY PATROL (TROOP S)
 COMMERCIAL VEHICLE ENFORCEMENT
 200 NE 38TH TERR www.ok.gov/ohpcmv
 OKLAHOMA CITY, OK 73105-3703
 Phone: (405)521-6060 Fax: (405)702-0819

Report Number: OKH400152044
 Inspection Date: 05/27/2019
 Start: 8 25 AM CT End: 8:51 AM CT
 Inspection Level: II - Walk-Around
 HM Inspection Type: None

BAR W TRUCKING LLC

695 N 180TH RD
 BENNINGTON, KS, 67422-9048

USDOT: 1402294 Phone#:

MC/MX#: 00534621 Fax#:

State#:

Location: NORMAN

Highway: I-35

County:

Driver: ENTERKIN, JOSEPH P

License#:

Date of Bi

CoDriver:

License#:

Date of Birth:

State: KS

State:

Milepost: 110 Shipper: N/A

Origin: KINGMAN,KS

Destination: TEMPLE,TX

Bill of Lading: N/A

Cargo: EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	KW	2006	KS	TEMP		43418	52000			
2	ST	Merr	2012	KS	505851		022356	68000			

BRAKE ADJUSTMENTS No brake measurements required for level II or level III

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392 2-SLLS1	F	D	N		N	N	State/Local Laws - Speeding 1-5 miles per hour over the speed limit . 69 IN 60

HazMat: No HM transported

Placard:

Cargo Tank:

Special Checks:

Alcohol/Controlled Substance Check

X

Conducted by Local Jurisdiction

Size and Weight Enforcement

eScreen Inspection

Traffic Enforcement

PASA Conducted Inspection

Drug Interdiction Search

Post Crash Inspection

PBBT Inspection

NOTE TO DRIVER This report must be furnished to the motor carrier whose name appears at the top of this report. NOTE TO CARRIER If violations are noted, please ensure corrections are completed and sign the below certification Please return the signed copy of this report within fifteen (15) days to the Oklahoma Highway Patrol, Troop S Failure to comply may result in forfeiture of OCC License

Signature Of Repairer X _____ Facility _____ Date _____

****CARRIER CERTIFICATION** THE UNDERSIGNED CERTIFIES THAT ALL VIOLATIONS NOTED ON THIS REPORT HAVE BEEN CORRECTED AND ACTION HAS BEEN TAKEN TO ASSURE COMPLIANCE WITH THE OKLAHOMA MOTOR CARRIER SAFETY STATUTES AS THEY ARE APPLICABLE TO MOTOR CARRIERS AND DRIVERS

Signature Of Motor Carrier X. _____ Title _____ Date _____

Report Prepared By: ID/Badge #.
 B LANDERS 640

Copy Received By:
 JOSEPH ENTERKIN

X

X



CERTIFICATE OF SERVICE

20-TRAM-289-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 01/10/2020.

LISHA WOLF, MEMBER
BAR W TRUCKING, LLC
695 N 180TH RD
BENNINGTON, KS 67442-9048
barwtruck@twinvalley.net

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

/S/ DeeAnn Shupe

DeeAnn Shupe