



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-224-PEN

November 26, 2019

Nicholas Sheffield, Member
Sheffield Sawmilling LLC
1310 A Westloop Place Box 165
Manhattan, KS 66502

This is a notice of a penalty assessment against Sheffield Sawmilling LLC (Sheffield Sawmilling) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on November 14, 2019, by Kansas Corporation Commission Special Investigator Verna Jackson. 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: Sheffield Sawmilling has been assessed a \$200 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$200, 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 Sheffield Sawmilling 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. Sheffield Sawmilling 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 \$200 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,

Ansan 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 **Sheffield**)
Sawmilling LLC, of Manhattan, KS,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-224-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. Sheffield Sawmilling LLC (Sheffield Sawmilling) operates under USDOT number 2827037.

5. Sheffield Sawmilling is a private motor carrier which primarily hauls machinery, large objects, and tree limbs.

III. STATEMENT OF FACTS

6. Pursuant to the jurisdiction and authority cited above, on November 14, 2019, Commission Staff (Staff) Special Investigator Verna Jackson conducted a safety compliance review of the operations of Sheffield Sawmilling. 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 September 4, 2019, Sheffield Sawmilling required or permitted its driver, Nicholas Sheffield, to operate a CDL-required commercial motor vehicle, a 2000 GMC, VIN ending in 527235, GVWR 27,000 lbs., in intrastate commerce from Riley, Kansas to Manhattan, Kansas. This trip is evidenced by a Driver's Time Record (100 air-mile radius), a copy of

which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Sheffield Sawmilling failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. This carrier was cited for the same violation in a safety compliance review conducted on July 10, 2018. Sheffield Sawmilling’s failure to inquire into its driver’s MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 2018 Supp. 66-1,112. Staff recommends an enhanced fine of \$200.

IV. STAFF’S RECOMMENDATIONS

7. Based upon the available facts, Staff recommends the Commission finds Sheffield Sawmilling 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 \$200 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

9. Staff further recommends that a representative from Sheffield Sawmilling 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 Sheffield Sawmilling 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 Sheffield Sawmilling 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 Sheffield Sawmilling 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. Sheffield Sawmilling LLC, of Manhattan, KS is hereby assessed a \$200 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. Sheffield Sawmilling 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. Sheffield Sawmilling 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 Sheffield Sawmilling's right to a hearing, and this Penalty Order will become a Final Order assessing a \$200 civil penalty against Sheffield Sawmilling, and ordering a representative from Sheffield Sawmilling 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 \$200 is due in thirty (30) days from the date of service of this Order. Payment of \$200 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 \$200 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 Sheffield Sawmilling'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: 11/26/2019




Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION

	U.S. DOT#: 2827037 MC/MX#:	Legal: SHEFFIELD SAWMILLING LLC Operating (DBA): SHEFFIELD TREE SERVICE	Investigation Date: 11/14/19
Investigation Type: Offsite Investigation			
Physical Address		Mailing Address	
10570 ANDERSON AVENUE RILEY, KS 66531 United States		1310 A WESTLOOP PLACE BOX 165 MANHATTAN, KS 66502 United States	
Contact Information			
Contact Name:			
Email: [REDACTED] Phone: [REDACTED]			
Fax: ()-			
Business and Financial			
Business Type: Limited Liability Corporation			
Gross Revenue: [REDACTED] For Year Ending: 12/31/18			
Federal Tax ID: [REDACTED] (N)			
Operation Classification and Type		Cargo	
Type of Operation: HM Intrastate Carrier		Machinery, Large Objects, Other (tree limbs)	
Operation Classification			
Private Motor Carrier Property – Hazardous Materials			
Hazardous Materials			
Which of the following hazardous materials requiring a Safety Permit does the company transport?		None	
Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E?		N/A	
Is an HM Permit required by any State?		No	
Hazardous Materials		Class 9 Miscellaneous hazardous material = C, NB	

Equipment				Driver Information		
	Owned	Term Leased	Trip Leased	Drivers		
Straight Trucks	1				Intrastate	Interstate
Power units used in the U.S.: 3 Percentage of time used in the U.S.: 100.0%				< 100 Miles	1	
				>= 100 Miles		
				Average trip leased driver/month: 0 Drivers with CDL: 1 Total Drivers: 1		
Person(s) Interviewed						
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:				Kansas Corporation Commission 1500 SW Arrowhead Rd Topeka, KS 66604 Phone. (785) 271-3104 Fax (785) 271-3124		
This report will be used to assess your safety compliance.						

Violations

1. 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).	<table><tr><th colspan="3">Violations Discovered</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table> <table><tr><th colspan="3">Violations Checked</th></tr><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td></td><td>1</td><td>1</td></tr></table>	Violations Discovered			Fed	State	Total		1	1	Violations Checked			Fed	State	Total		1	1
Violations Discovered																			
Fed	State	Total																	
	1	1																	
Violations Checked																			
Fed	State	Total																	
	1	1																	
Example/Notes: Nicholas Sheffield September 4, 2019 Sheffield Sawmilling LLC failed to maintain the responses of the driver's MVR in the driver qualification file. The annual inquiry is to be conducted at least once every 12 months.	<table><tr><th colspan="2">Drivers/Vehicles</th></tr><tr><th>In Violation</th><th>Checked</th></tr><tr><td>1</td><td>1</td></tr></table>	Drivers/Vehicles		In Violation	Checked	1	1												
Drivers/Vehicles																			
In Violation	Checked																		
1	1																		

Safety Fitness Rating

This Investigation is Not Rated

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

This was an offsite investigation. An offsite investigation allows FMCSA to evaluate your safety compliance with minimal disruption to your business. An offsite investigation will not result in a safety rating.

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: Driver Fitness

Process Breakdown: Monitoring and Tracking

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.

Recommendations

1. **Additional Information**

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

2. **If you have any questions concerning this report, contact KCC.**

If you have any questions concerning this report, please contact the Kansas Corporation Commission, 1500 SW Arrowhead Rd, Topeka, KS 66604 or call 785-271-3104.

3. **SMS website**

You are encouraged to review your company's SMS results and take action to make the roads safer for everyone. Your public safety records are available at the following website: <http://ai.fmcsa.dot.gov/sms>. Also visit <https://portal.fmcsa.dot.gov> which provides real time data and the opportunity to review you safety data. You will need to use your PIN number that has been provided by FMCSA. Registration and access is free.

4. **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.

5. **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 66604-4027

6. **CAP Penalty**

Motor carriers are responsible for complying with all tasks ordered by the Commission. You are required to prepare a corrective action plan (CAP), addressing the measures taken to correct all the violations identified within this report. 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.

7. **Acknowledgement Stmt - Offsite**

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 [motor carrier's] operating authority and/or the impoundment of [motor carrier's] commercial motor vehicles.

Carrier Representative

Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.

8. **Monetary Penalties**

I understand that monetary penalties will be assessed as a result of violations found in this compliance investigation. The penalty

schedule can be found at this web site: http://kcc.ks.gov/trans_penalty_assessment_table.htm

Carrier Name

Carrier Official

9. **Safety Seminar Requirement**

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, carriers 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.

ATTACHMENT “B”

DRIVER'S TIME RECORD (100 air-mile radius)

Driver's Name (print) Nicholas Sheffield Employee No. 1 Month Sept Year 2019

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

- *Operates within 100 air-mile radius of the normal work reporting location.
- *Returns to normal work reporting location and is released from work within 12 consecutive hours.
- *At least 10 consecutive hours off duty separate each 12 hours on duty.

INTERMITTENT DRIVERS

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

Date	Start Time	End Time	Total Hours	Truck Number	Trip Information TO - FROM
1	OFF	Sunday	0		
2	OFF	Labour Day	0		
3	7:30	5:00	8 1/2		1 hr lunch
4	8	4:30	7 1/2		" } local job locations
5	7:30	5:30	8		"
6	8	5:00	8		"
7	8	4:30	7 1/2		"
8	OFF	Sunday	0		
9	7	5	8		1 hr lunch
10	7:30	4:30	8		" } local job locations
11	8	5	8		"
12	8	5	8		"
13	7:30	5:30	8		"
14	OFF	Sat	0		
15	OFF	Sun	0		
16	7:30	5	8 1/2		1 hr lunch
17	7:30	5	8 1/2		" } local job locations
18	8	5	8		"
19	7:30	5:30	8		"
20	7:30	5:30	8		"
21	OFF	Sat.	0		
22	OFF	Sun	0		
23	7:30	4:30	8		1 hr lunch
24	8	5	8		" } local job locations
25	7:30	4:30	8		"
26	7:30	5	8 1/2		"
27	8	5:30	8 1/2		"
28	8:30	2	5 1/2		No lunch
29	OFF	Sunday	0		
30	7:30	5	8 1/2		1 hr lunch - local job
31					

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

CERTIFICATE OF SERVICE

20-TRAM-224-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
11/27/2019
first class mail/hand delivered on _____.

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

NICHOLAS A. SHEFFIELD, MANAGING MEMBER
SHEFFIELD SAWMILLING LLC
1310 WESTLOOP PLACE BOX 165
MANHATTAN, KS 66502
sheffieldsawmillingllc@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe