

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



20180227160822  
Kansas Corporation Commission  
Phone: 785-271-3100  
Fax: 785-271-3354  
<http://kcc.ks.gov/>

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

Governor Jeff Colyer, M.D.

**NOTICE OF PENALTY ASSESSMENT**  
18-TRAM-347-PEN

February 27, 2018

Russ Smith, General Manager  
The McCune Farmers Union Cooperative Association  
PO Box 58  
McCune, Kansas 66753

**Certified Mail No. 70161970000105744196**

This is a notice of a penalty assessment against The McCune Farmers Union Cooperative Association (McCune Farmers Union) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on February 6, 2018, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties 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(s) and terms and obligations please refer to the Order attached to this notice.

**IF YOU ACCEPT THE PENALTY:** McCune Farmers Union has been assessed a \$100 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$100, 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 McCune Farmers Union 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](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. McCune Farmers Union 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 Secretary to the Commission 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. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$100 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

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

**PENALTY ORDER**

## I. 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 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. The McCune Farmers Union Cooperative Association (McCune Farmers Union) has private operating authority with the Commission and further operates USDOT number 950638.

5. Ashley Stout attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on May 20, 2014, on behalf of McCune Farmers Union.

6. McCune Farmers Union is a private motor carrier which primarily hauls liquids/gases in cargo tanks, chemicals and commodities dry bulk.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on February 6, 2018, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of McCune Farmers Union. 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 November 7, 2017, McCune Farmers Union required or permitted its driver, Marty Rauniker, to operate a CDL-required commercial motor vehicle, a 2008 International truck, VIN ending in 662342, GVWR 33,000 lbs., in intrastate commerce from McCune, Kansas to Scammon, Kansas.

This trip is evidenced by Driver'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, McCune Farmers Union required or permitted this transportation prior to first designating a person to supervise staff for the purposes of making reasonable suspicion determinations regarding alcohol and drug usage. This designated person must then undergo reasonable suspicion training to include 60 minutes of alcohol training and 60 minutes of controlled substance training. The carrier's inability to produce documentation of this training and its failure to have a designated person to attend 60 minutes of training on alcohol misuse and an additional 60 minutes of training on controlled substances use is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$100.

#### **IV. STAFF'S RECOMMENDATIONS**

8. Based upon the available facts, Staff recommends the Commission finds McCune Farmers Union 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.

9. Additionally, Staff recommends a civil penalty of \$100 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from McCune Farmers Union 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](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that McCune Farmers Union 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**

12. The Commission finds it has jurisdiction over McCune Farmers Union because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

13. The Commission finds McCune Farmers Union 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. The McCune Farmers Union Cooperative Association, of McCune, Kansas is hereby assessed a \$100 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. McCune Farmers Union 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. McCune Farmers Union 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.

D. On February 27, 2018, this Penalty Order was mailed to McCune Farmers Union via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105744196. Service of this Order is complete upon the date delivered shown on the Domestic Return Receipt.

E. 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. 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 Secretary to the Commission, 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 McCune Farmers Union's right to a hearing, and this Penalty Order will become a Final Order assessing a \$100 civil penalty against McCune Farmers Union, and ordering a representative from McCune Farmers Union 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. 2016 Supp. 66-1,142b(e) and amendments thereto.

G. If you do not request a hearing, the payment of the civil penalty of \$100 is due in thirty (30) days from the date of service of this Order. Payment of \$100 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 \$100 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 McCune Farmers Union'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.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: Feb. 27, 2018

  
\_\_\_\_\_  
Lynn M. Retz  
Secretary to the Commission

AAL

## **ATTACHMENT “A”**





US DOT #  
950638

Legal: THE MCCUNE FARMERS UNION COOP ASSOC  
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  
Shipper: N/A HM  
Cargo Tank: N/A

Business: Corporation

Gross Revenue: for year ending: 12/31/2017

Company Physical Address:



Contact Name: Russ Smith

Phone numbers: (1)

Fax

E-Mail Address:

Company Mailing Address:

P O BOX 58  
MCCUNE, KS 66753-0058

Carrier Classification

Private Property

Cargo Classification

Liquids / Gases in Cargo Tanks Chemicals

Commodities Dry Bulk

Hazardous Materials

2.1 LPG

Carr./Ship.

Bulk

2.2 Anhydrous ammonia

Carr./Ship.

Bulk

3 Flammable liquid

Carr./Ship.

Bulk

3 Combustible liquid

Carr./Ship.

Bulk

Equipment

Owned Term Leased Trip Leased

Owned Term Leased Trip Leased

Truck

5

0

0

HM Cargo Tank Truck

3

0

0

Power units used in the U.S.: 8

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

Does carrier transport placardable quantities of HM? Yes

Is an HM Permit required? No

Driver Information

Inter

Intra

Average trip leased drivers/month: 0

< 100 Miles:

5

Total Drivers: 5

>= 100 Miles:

CDL Drivers: 5





THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

**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 Road  
Topeka, Ks 66604-4027 785-271-3145

**This report will be used to assess your safety compliance.**

**Person(s) Interviewed**

**Name:** [REDACTED]

**Name:** Russ Smith

**Title:** General Manager





THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

### Part B Violations

1 STATE	Primary: 382.603  CFR Equivalent: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked 0
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#### Description

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

#### Example

Driver name: [REDACTED]

Trip date for above driver: 11-07-17

McCune Ks to Scammon Ks. Propane.

At the time of this trip, and the time of this review, the supervisor, Russ Smith, could not provide any documentation that he had obtained any supervisor training. Smith is the only supervisor of the 5 drivers.

#### Safety Fitness Rating Information:

Total Miles Operated 32,500  
Recordable Accidents 0  
Recordable Accidents/Million Miles 0.00

OOS Vehicle (CR): 0  
Number of Vehicle Inspected (CR): 0  
OOS Vehicle (MCMIS): 0  
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

**SATISFACTORY**

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	S	0	0
Factor 4:	S	0	0
Factor 5:	S	0	0
Factor 6:	S	-	-





THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: XXXXXXXXXX

Review Date:  
02/06/2018

**Security Contact Q & A**  
**Sensitive Security Information**

**Security Assessment**

- |   |  |             |
|---|--|-------------|
| 1 | Does plan include a specific assessment of possible HM transp. security risks? | Answer: Yes |
| 2 | Does assessment adequately capture specific threats and vulnerabilities (T&V)? | Answer: Yes |
| 3 | Does the assessment adequately capture specific T&V of personnel security?     | Answer: Yes |
| 4 | Does the assessment adequately capture specific T&V of unauthorized access?    | Answer: Yes |
| 5 | Does the assessment adequately capture specific T&V of en route security?      | Answer: Yes |
| 6 | Is the organization's security posture periodically assessed?                  | Answer: Yes |

**Security Plan**

- |    |  |             |
|----|--|-------------|
| 7  | Does the security plan correlate to the security assessment in question 2 above? | Answer: Yes |
| 8  | Is the security plan "specific" to the organization?                             | Answer: Yes |
| 9  | Are there written procedures on actions to take in event of a security breach?   | Answer: Yes |
| 10 | Are there written procedures to report the above to law enforcement?             | Answer: Yes |
| 11 | Do security plan measures "vary commensurate with the level of threat"?          | Answer: No  |

**Comments**

The carrier security plan specifically states it does not vary according to threat levels but rather the threat notifications from national authorities in reference to their specific commodities transported.

**Personnel Security**

- |    |  |             |
|----|--|-------------|
| 12 | Are the personnel security measures appropriate for the assessment as written?   | Answer: Yes |
| 13 | Are the personnel security measures adequate even if not all risks identified?   | Answer: Yes |
| 14 | Are the security plan's personnel security measures being followed?              | Answer: Yes |
| 15 | Do all drivers required to have valid CDLs with required endorsements have them? | Answer: Yes |
| 16 | Are required background checks on drivers conducted?                             | Answer: Yes |
| 17 | Is information confirmed for applicants applying for positions dealing with HM?  | Answer: Yes |
| 18 | Are performance standards or PSOs used in the approach to personnel security?    | Answer: Yes |
| 19 | Is citizenship or legal residence status confirmed for all employees?            | Answer: Yes |

**Unauthorized Access**

- |    |   |             |
|----|---|-------------|
| 20 | Is the security plan's approach to unauthorized access operation specific?      | Answer: Yes |
| 21 | Are the unauthorized access measures appropriate for the assessment as written? | Answer: Yes |
| 22 | Are the unauthorized access measures adequate even if not all risks identified? | Answer: Yes |
| 23 | Are the security plan's unauthorized access measures being followed?            | Answer: Yes |

**En Route Security**

- |    |   |             |
|----|---|-------------|
| 24 | Is the security plan's approach to en route security operation specific?      | Answer: Yes |
| 25 | Are the en route security measures appropriate for the assessment as written? | Answer: Yes |
| 26 | Are State/Indian tribe NRHM (non-RAM) routing designations being followed?    | Answer: N/A |







THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

**Security Contact Q & A**  
**Sensitive Security Information**

- |    |   |             |
|----|---|-------------|
| 27 | Are written route plans provided to drivers of Division 1.1, 1.2, and 1.3 HM?   | Answer: N/A |
| 28 | Are drivers of vehicles transporting HRCQ RAM complying with preferred routing? | Answer: N/A |
| 29 | Are routing guidelines being followed for vehicles transporting NRHM (non-RAM)? | Answer: N/A |
| 30 | Are hazardous materials delivered expeditiously?                                | Answer: N/A |
| 31 | Are the routing regs. and ER Instr. provided for Div. 1.1, 1.2, and 1.3 HM?     | Answer: N/A |

**Security Plan Administration**

- |    |  |             |
|----|--|-------------|
| 32 | Is the security plan written?  | Answer: Yes |
| 33 | Is the security plan retained for as long as it remains in effect?             | Answer: Yes |
| 34 | Is the plan (or parts) available to employees responsible for implementing it? | Answer: Yes |
| 35 | Are all copies of the security plan updated and revised as necessary?          | Answer: Yes |
| 36 | Does the organization have fixed management responsibility for security?       | Answer: Yes |

**Security Training**

- |    |  |             |
|----|--|-------------|
| 37 | Has security awareness training been provided to all HM employees on schedule?   | Answer: Yes |
| 38 | Has in-depth training been provided to HM employees with plan responsibilities?  | Answer: Yes |
| 39 | Does the in-depth training include company security objectives?                  | Answer: Yes |
| 40 | Does the in-depth training include specific personnel security procedures?       | Answer: Yes |
| 41 | Does in-depth training material include specific unauthorized access procedures? | Answer: Yes |
| 42 | Does in-depth training material include specific en route security procedures?   | Answer: Yes |
| 43 | Does the in-depth training material include employee responsibilities?           | Answer: Yes |
| 44 | Does in-depth training include actions to take in event of a security breach?    | Answer: Yes |
| 45 | Does in-depth training material include an organizational security structure?    | Answer: Yes |

**Additional Security Management**

- |    |   |             |
|----|---|-------------|
| 46 | Has the organization established partnerships with other agencies for security? | Answer: Yes |
|----|---|-------------|

**Security Plan**

- |    |   |             |
|----|---|-------------|
| 47 | Overall, does the Security Plan conform to Part 172, Subpart 1? | Answer: Yes |
|----|---|-------------|

**Security Plan Administration**

- |    |   |             |
|----|---|-------------|
| 48 | Ensure the individual for security reports to top management. | Answer: Yes |
|----|---|-------------|





THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

## Part B Requirements and/or Recommendations

### 1. 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 carriers 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 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







THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

### Part B Requirements and/or Recommendations

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  
Jeff Ellett - 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 MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

### Part B Requirements and/or Recommendations

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

2. 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

3. "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](http://kcc.ks.gov/trans/penalty_assessment_table.htm)"

Carrier Signature

*Russell W. Smith*

Investigator Signature

*M. W. Neenan 8213*

4. You are encouraged to review your company's safety record at the following website:

<https://ai.fmcsa.dot.gov/login/default.asp>

You will need to enter your US DOT # Personnel Identification Number (PIN) that has been provided to you by FMCSA in the log in form at the bottom of the page. If you have forgotten your PIN you only need to click on a link on the webpage to make a request for your PIN to be forwarded to you by U.S. mail.

Safety Improvement Resources (SIRs) is a compilation of articles, reports, and other tools designed to assist motor







THE MCCUNE FARMERS UNION COOP ASSOC  
U.S. DOT #: 950638

State #: [REDACTED]

Review Date:  
02/06/2018

### Part B Requirements and/or Recommendations

carriers with improving their current safety management practices. SIRs are searchable by resource number, BASIC or safety management practice (SMP). Please refer to any Safety Improvement Resource numbers included within the recommendations.

You are encouraged to view all of the SIRs at the following website: [http://ai.fmcsa.dot.gov/sms/Data/carrier\\_sir.aspx](http://ai.fmcsa.dot.gov/sms/Data/carrier_sir.aspx)

5. Please update and include all pertinent information with regards to commodities carried, ie Hazardous Materials or other products on your MCS-150 registration.
6. 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.
7. 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 [McCune Farmers COOP Union Association) operating authority and/or the impoundment of [McCune Farmers COOP Union Association)] vehicles.

Carrier Signature

*Russell W. Smith*

Investigator Signature

*M. W. R. [unclear] 8213*



## **ATTACHMENT “B”**



No. \_\_\_\_\_  
 Name MacKay  
 Pay Period Ending \_\_\_\_\_  
 Reg. Hrs. \_\_\_\_\_ Rate \_\_\_\_\_ Amount \_\_\_\_\_  
 Extra Hrs. \_\_\_\_\_ Rate \_\_\_\_\_ Amount \_\_\_\_\_ Total \_\_\_\_\_  
 DEDUCTIONS  
 Fed. Tax \_\_\_\_\_  
 State Tax \_\_\_\_\_  
 Soc. Sec. Tax \_\_\_\_\_  
 Medicare \_\_\_\_\_  
 Insurance \_\_\_\_\_  
 Miscellaneous \_\_\_\_\_ Total \_\_\_\_\_  
 Net Wages \_\_\_\_\_

Correct as Shown. Pay Received. \_\_\_\_\_

EXTRA TIME		REGULAR TIME	
	1st Day	IN	A.M.
		OUT	NOON
		IN	P.M.
	2nd Day	IN	A.M.
		OUT	NOON
		IN	P.M.
THIS	3rd Day	IN	A.M.
		OUT	NOON
		IN	P.M.
SIDE	4th Day	IN	A.M.
		OUT	NOON
		IN	P.M.
OUT	5th Day	IN	A.M.
		OUT	NOON
		IN	P.M.
	6th Day	IN	A.M.
		OUT	NOON
		IN	P.M.
Refer - 80 - OP - 11.06	7th Day	IN	A.M.
		OUT	NOON
		IN	P.M.
TOTAL		TOTAL	

## CERTIFICATE OF SERVICE

18-TRAM-347-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 Feb. 27, 2018.

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
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RUSS SMITH, GENERAL MANAGER  
THE MCCUNE FARMERS UNION COOPERATIVE  
ASSOCIATION  
PO BOX 58  
MCCUNE, KS 66753-0058  
mccunecoop@ckt.net

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe