

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

September 5, 2019

20-TRAM-093-PEN

Octavio Sosa, President
TX Valley Produce and Meat Distribution, Inc.
1021 S 12th Street
Kansas City, KS 66105

This is a notice of a penalty assessment against TX Valley Produce and Meat Distribution, Inc. (TX Valley Produce) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on July 30, 2019, by Kansas Corporation Commission Special Investigators Jared Smith and 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: TX Valley Produce has been assessed a \$1,550 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$1,550, 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 TX Valley Produce 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. TX Valley Produce 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 \$1,550 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 **TX Valley**)
Produce and Meat Distribution, Inc., of)
Kansas City, KS, Regarding the Violation of the)
Motor Carrier Safety Statutes, Rules and) Docket No. 20-TRAM-093-PEN
Regulations and the 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.A.R. 82-4-1b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.A.R. 82-4-1, 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. TX Valley Produce and Meat Distribution, Inc. (TX Valley Produce) has private and common operating authority with the Commission and further operates under USDOT number 2607846.

5. Alexander Arroyo attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on June 5, 2018, on behalf of TX Valley Produce.

6. TX Valley Produce is a private and common motor carrier which primarily hauls general freight, fresh produce, meat, commodities dry bulk, refrigerated foods, beverages, and paper products.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on July 30, 2019, Commission Staff (Staff) Special Investigators Jared Smith and Verna Jackson conducted a safety compliance review of the operations of TX Valley Produce. 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 two (2) violation(s) of the Motor Carrier Safety Regulations.

- a. On April 27, 2019, TX Valley Produce required or permitted its driver, Carlos Rogelio, to operate a CDL-required commercial motor vehicle, a 210 International, VIN ending in 232276, GVWR 52,350 lbs., pulling a 2006 Great Dane trailer, VIN ending in 705322, GVWR 68,000 lbs., in interstate commerce from Kansas City, Kansas to Saint Joseph Missouri. This trip is evidenced by Driver's Daily Log, dated April 27, 2019, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, TX Valley Produce failed to ensure that each driver subject to random alcohol and controlled substances testing had an equal chance of being selected each time selections were made. Drivers Carlos Rogelio and Ronald Castro were not in the random testing pool. This carrier was cited the same violation in a compliance review conducted on March 8, 2018. TX Valley Produce's failure to ensure that each driver selected for random alcohol and controlled substance testing has an equal chance of being selected each time selections are made is in violation of 49 C.F.R. 382.305(i)(2), adopted by K.A.R. 82-4-3c and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends an enhanced fine of \$1,300.
- b. On April 19, 2019, TX Valley produce required or permitted its driver, David Perez-Cadena, to operate a CDL-required commercial motor vehicle, a 2010 International, VIN ending in 232276, GVWR 52,350 lbs., in interstate commerce from New Braunfels, Texas to Emporia, Kansas. This trip is evidenced by Driver's Daily Log, dated April 19, 2019, a copy

of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, TX Valley Produce was in violation of requiring or permitting a property-carrying commercial motor vehicle driver to drive more than eleven (11) hours. The carrier’s failure to require its driver to cease driving after the 11th hour during the 14-hour consecutive hours of driving time after coming on duty following 10 consecutive hours off duty is in violation of 49 C.F.R. 395.3(a)(3)(i), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 2018 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF’S RECOMMENDATIONS

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

9. Additionally, Staff recommends a civil penalty of \$1,550 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from TX Valley Produce 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.

11. Finally, Staff recommends that TX Valley Produce 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 TX Valley Produce because it is a motor carrier as defined in K.A.R. 82-4-1.

13. The Commission finds TX Valley Produce committed two (2) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. TX Valley Produce and Meat Distribution, Inc., of Kansas City, KS is hereby assessed a \$1,550 civil penalty for two (2) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. TX Valley Produce 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. TX Valley Produce 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 TX Valley Produce's right to a hearing, and this Penalty Order will become a Final Order assessing a \$1,550 civil penalty against TX Valley Produce, and ordering a representative from TX Valley Produce 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 \$1,550 is due in thirty (30) days from the date of service of this Order. Payment of \$1,550 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 \$1,550 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 TX Valley Produce'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: 09/05/2019




Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

	US DOT # 2607846	Legal: TX VALLEY PRODUCE AND MEAT DISTRIBUTION INC Operating (DBA): TEXAS VALLEY TRANSPORT																										
MC/MX #: 994405		Federal Tax ID:  (EIN)																										
Review Type: Non-ratable Review - CSA																												
Scope: Principal Office		Location of Review/Audit: CSA Off-site		Territory:																								
Operation Types <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;">Interstate</td> <td style="width:15%;">Intrastate</td> <td colspan="3"></td> </tr> <tr> <td>Carrier: Non-HM</td> <td>Non-HM</td> <td colspan="3">Business: Corporation</td> </tr> <tr> <td>Shipper: N/A</td> <td>N/A</td> <td colspan="3">Gross Revenue: \$  for year ending: 12/31/2018</td> </tr> <tr> <td>Cargo Tank:</td> <td>N/A</td> <td colspan="3"></td> </tr> </table>					Interstate	Intrastate				Carrier: Non-HM	Non-HM	Business: Corporation			Shipper: N/A	N/A	Gross Revenue: \$  for year ending: 12/31/2018			Cargo Tank:	N/A							
Interstate	Intrastate																											
Carrier: Non-HM	Non-HM	Business: Corporation																										
Shipper: N/A	N/A	Gross Revenue: \$  for year ending: 12/31/2018																										
Cargo Tank:	N/A																											
Company Physical Address: 1021 S 12TH STREET KANSAS CITY, KS 66105-1612																												
Contact Name: Octavio Sosa Phone numbers: (1)  E-Mail Address: 																												
Company Mailing Address: 1021 S 12TH STREET KANSAS CITY, KS 66105-1612																												
Carrier Classification <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; border-right: 1px solid black;">Authorized for Hire</td> <td style="width:33%; border-right: 1px solid black;">Private Property</td> <td style="width:34%;"></td> </tr> </table>					Authorized for Hire	Private Property																						
Authorized for Hire	Private Property																											
Cargo Classification <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">General Freight</td> <td style="width:33%;">Fresh Produce</td> <td style="width:34%;">Meat</td> </tr> <tr> <td>Commodities Dry Bulk</td> <td>Refrigerated Foods</td> <td>Beverages</td> </tr> <tr> <td>Paper Products</td> <td></td> <td></td> </tr> </table>					General Freight	Fresh Produce	Meat	Commodities Dry Bulk	Refrigerated Foods	Beverages	Paper Products																	
General Freight	Fresh Produce	Meat																										
Commodities Dry Bulk	Refrigerated Foods	Beverages																										
Paper Products																												
Equipment <table style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck</td> <td>2</td> <td>0</td> <td>0</td> <td>Truck Tractor</td> <td>3</td> <td>0</td> <td>0</td> </tr> <tr> <td>Trailer</td> <td>5</td> <td>0</td> <td>0</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>						Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck	2	0	0	Truck Tractor	3	0	0	Trailer	5	0	0				
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased																					
Truck	2	0	0	Truck Tractor	3	0	0																					
Trailer	5	0	0																									
Power units used in the U S. 5 Percentage of time used in the U S. 100																												
Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A																												
Driver Information <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:10%;">Inter</td> <td style="width:10%;">Intra</td> <td style="width:15%;"></td> <td style="width:50%;"> Average trip leased drivers/month: 0 Total Drivers: 5 CDL Drivers: 4 </td> </tr> <tr> <td>< 100 Miles:</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>>= 100 Miles:</td> <td>5</td> <td></td> <td></td> <td></td> </tr> </table>						Inter	Intra		Average trip leased drivers/month: 0 Total Drivers: 5 CDL Drivers: 4	< 100 Miles:					>= 100 Miles:	5												
	Inter	Intra		Average trip leased drivers/month: 0 Total Drivers: 5 CDL Drivers: 4																								
< 100 Miles:																												
>= 100 Miles:	5																											



	TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba) U.S. DOT # 2607846	Review Date. 07/30/2019
---	--	----------------------------

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

This report will be used to assess your safety compliance.

Person(s) Interviewed


Name: Octavio Sosa

Title: President

Name: Ofelia Fernandez

Title: Secretary



	TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba)	Review Date
	U.S. DOT #. 2607846	07/30/2019

Part B Violations

1 FEDERAL	Primary: 382.305(i)(2)	Discovered 2	Checked 4	Drivers/Vehicles In Violation 2	Checked 4
--------------	------------------------	-----------------	--------------	---------------------------------------	--------------

Description

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.

Example

On April 27, 2019 TX Valley Produce and Meat Distribution Inc. dba Texas Valley Transport had driver Carlos Rogelio (KS CDL# [REDACTED]) operate a 2010 International (Unit # 37, VIN# [REDACTED] 232276) in combination with a 2006 Great Dane (Unit # 8, VIN# [REDACTED] 705322) These vehicles have a gross vehicle weight rating of 52,350 lbs. and 68,000 lbs Driver Carlos Rogelio operated in commerce on an interstate trip from Kansas City, Kansas to Saint Joseph, Missouri. This trip is evidenced by a driver's record of duty status. At the time of this trip carrier was found to be in violation of 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.

2 FEDERAL	Primary: 395.3(a)(3)(i)	Discovered 1	Checked 3	Drivers/Vehicles In Violation 1	Checked 3
--------------	-------------------------	-----------------	--------------	---------------------------------------	--------------

Description

Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.

Example


On April 19, 2019 TX Valley Produce and Meat Distribution Inc. dba Texas Valley Transport had driver David Perez-Cadena (KS CDL# [REDACTED]) operate a 2010 International (Unit # 37, VIN# [REDACTED] 232276.) This vehicle has a gross vehicle weight rating of GVWR 52,350 lbs Driver David Perez-Cadena operated in commerce on an interstate trip from New Braunfels, Texas to Emporia, Kansas. This trip is evidenced by a driver's record of duty status and fuel receipt. At the time of this trip carrier was found to be in violation of requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.

Safety Fitness Rating Information:		OOS Vehicle (CR): 0	
Total Miles Operated	255,111	Number of Vehicle Inspected (CR): 0	
Recordable Accidents	0	OOS Vehicle (MCMIS): 0	
		Number of Vehicles Inspected (MCMIS): 0	

Your proposed safety rating is :

This Review is not Rated.



	TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba) U.S. DOT #: 2607846	Review Date 07/30/2019
Safety Management Process Breakdowns and Remedies		

1. 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.

2. 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:



	TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba) U.S DOT #: 2607846	Review Date 07/30/2019
Safety Management Process Breakdowns and Remedies		

<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 did not result in a Cooperative Safety Plan
 The KCC requires that you prepare a corrective action plan, 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. 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

3. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN Texas Valley Transport's violations occurred due to a breakdown regarding the monitoring and tracking elements within this section. Carrier failed to keep random testing pool up to date. Carrier failed to have all current drivers in drug testing pool.

BASIC SPECIFIC RECOMMENDED REMEDIES: Verify that all current drivers are in your testing pool, be sure to add drivers to the random testing pool prior to them operating a commercial motor vehicle. In addition be sure to remove drivers from testing pool immediately after their employment ceases.

Implement Safety Improvement Practices The following are recommended practices related to Monitoring and Tracking Processes.

- 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.
- 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 controlled substances and alcohol. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR





TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba)
U.S. DOT # 2607846

Review Date:
07/30/2019

Safety Management Process Breakdowns and Remedies

checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.

- Monitor and adjust the testing program to ensure proper annual driver sampling.
- Ensure that all test records are monitored for adherence to retention dates and nondisclosure requirements
- Implement a system for keeping accurate records of controlled-substance and alcohol completed training needs and completed training, via software, checklist in the driver's file, and/or another appropriate method.
- Implement an effective process for monitoring and tracking drivers' removal from safety-sensitive functions and their return to duty according to controlled-substance and alcohol regulations and related company policies and procedures.
- 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.
- Maintain the following documents to help evaluate the performance of all staff (drivers and managers) involved in controlled-substance and alcohol testing and the effectiveness of the policies and procedures: Motor Vehicle Record (MVR); records related to testing, the designated employer representative (DER), return to duty, and dispatch, lists of drivers removed due to a history of controlled-substance and/or alcohol misuse and those disqualified for personal driving under the influence (DUI), substance-abuse professional (SAP) letters; and for each test type, include selection criteria, the eligibility-pool list, and the statistical laboratory summary.
- Regularly evaluate the company's controlled-substance and alcohol-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with controlled-substance and alcohol regulations and company policies.
- 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.).

Seek Out Resources.

- You are encouraged to review your company's record at the following website <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

4. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking


DESCRIPTION OF PROCESS BREAKDOWN. Texas Valley Transport's violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. These violations can also be attributed to lapses in the roles and responsibilities elements of your business. It is incumbent upon the carrier to review all driver records of duty status reports and verify that they are correct and accurate. Monitor the time records continually in order to track the driver movements. Finally, verify the accuracy of their reports with supporting documents. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. It is your responsibility to ensure that drivers don't operate beyond the 11 and 14 hour rules. This can only be accomplished by reviewing the logs regularly and comparing that information with the supporting documents.

BASIC SPECIFIC RECOMMENDED REMEDIES: Follow the above listed guidelines to remedy your hours of service issues. Drivers cannot continue to violate the hours of service regulations. These violations pose a safety risk to the motoring public. The violations discovered during this review must cease. Utilize all training programs and internal company policies at your disposal to re-train your drivers. Additionally, feel free to have them attend the State of Kansas's Procedures for Safety Compliance Presentation free of charge. This presentation will illuminate the correct way to create a log. As always, if you have questions or needs please contact me.

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look



	TEXAS VALLEY TRANSPORT (TX VALLEY PRODUCE AND MEAT dba) U.S. DOT # 2607846	Review Date: 07/30/2019
Safety Management Process Breakdowns and Remedies		

for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.

- Document all findings of fatigue-related noncompliance with regulations and/or company policies.
- Systematically check to see if drivers and dispatchers are regularly communicating about Hours-of-Service (HOS) availability and driver-fatigue level.
- Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
- Regularly evaluate the company's fatigue-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring drivers' Records of Duty Status (RODS) for accuracy; for whether they are applying performance standards fairly, consistently, and equitably; and for whether they are documenting evaluations.
- Consider using Electronic On-board Recorders (EOBRs) to monitor and track Hours-of-Service (HOS) violations
- When monitoring and tracking any fatigue-related issues, always assess whether an issue is individual or represents a systemic breakdown in the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources

- You are encouraged to review your company's record at the following website. <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

5. I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. 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 TX Valley Produce and Meat Distribution Inc. dba Texas Valley Transport's operating authority and/or the impoundment of TX Valley Produce and Meat Distribution Inc. dba Texas Valley Transport's commercial motor vehicle.

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.



ATTACHMENT “B”

Saturday, April 27, 2019

Company: Texas Valley Transport

Company address:

ELD Provider: Geotab, Inc.

Home terminal: Texas Valley Transport

Home terminal address: 1021 S 12th St Kansas City, KS 66105

Carrier: USDOT 2607846, Texas Valley Transport

Truck/Tractor Name: UNIT 37, VIN: [REDACTED] 232276

Trailers: #2

Current Geolocation:

Exempt Driver Status: No

Unidentified Driving Records: No

Signature:

rogelio.carlostxvalley@gmail.com

Driver: Carlos, Rogelio

Driver License State: KS

Driver License Number: [REDACTED]

Ruleset: USA Property 70-hour/8-day

Home Terminal Time Zone: America/Chicago (UTC-5)

24-hour Start Time: Midnight

Co-drivers: Tortolero, Jose Miguel

(josemiguel.tortoleroxvalley@gmail.com), Castro, Ronald

(ronald.castroxvalley@gmail.com)

Total Driving Distance: 115.3 mi

UNIT 37 Starting odometer: 752934 mi

UNIT 37 Ending odometer: 753094 mi

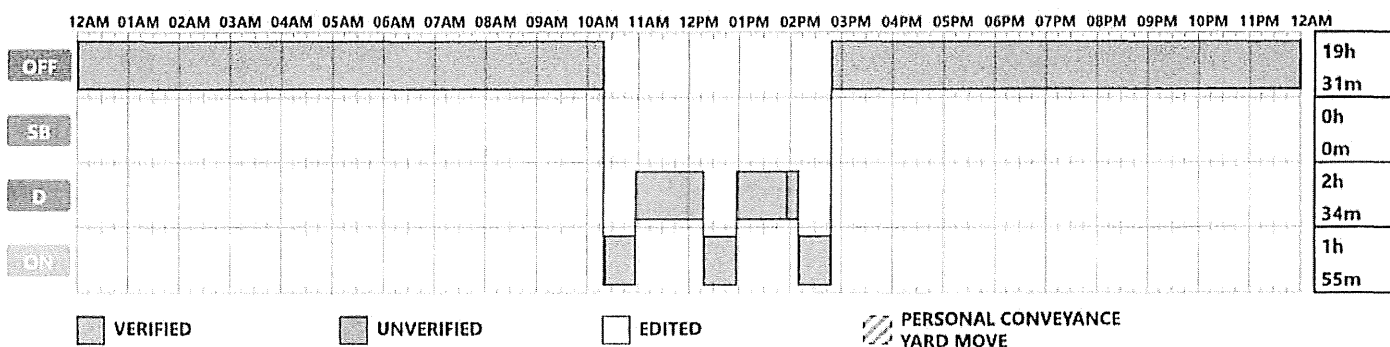
Current engine hours: 19880 hours

Current Odometer: 753094 mi



















Total Hours: 23h 59m

Shipper, Commodity and Document Number:

All times below are in America/Chicago



OFF	✓ Continued from previous day			10h 19m	None
ON	✓ 10:19 am	KS Kansas City		1m 54s	None
Login	10:20 am	KS Kansas City			UNIT 37
Assigned to UNIT 37					
Logoff	10:20 am				None
Unassigned from No vehicle					
ON	✓ 10:21 am	KS Kansas City	3.0 mi	35m 55s	UNIT 37
Dvir: Pre-trip					
!	10:41 am	KS Kansas City			UNIT 37
Engine shutdown					

	10:48 am	KS Kansas City			UNIT 37
 Engine power up					
	10:49 am	KS Kansas City			UNIT 37
 Engine shutdown					
	10:52 am	KS Kansas City			UNIT 37
 Engine power up					
	10:52 am	KS Kansas City			UNIT 37
 Engine shutdown					
	10:56 am	KS Kansas City			UNIT 37
 Engine power up					
 ✓	10:57 am	KS Kansas City	55.2 mi	1h 20m	UNIT 37
	12:16 pm	2mi SSW MO Saint Joseph			UNIT 37
 Engine shutdown					
 ON ✓	12:17 pm	2mi SSW MO Saint Joseph		39m 15s	UNIT 37
	12:39 pm	2mi SSW MO Saint Joseph			UNIT 37
 Engine power up					
 ✓	12:57 pm	2mi SSW MO Saint Joseph	54.7 mi	58m 59s	UNIT 37
 ✓	01:56 pm	2mi SSW MO Saint Joseph	1.2 mi	13m 55s	UNIT 37
 ON ✓	02:09 pm	KS Kansas City	1.0 mi	38m 21s	UNIT 37
	02:21 pm	KS Kansas City			UNIT 37
 Engine shutdown					
 Certify ✓	02:42 pm	KS Kansas City			UNIT 37



02:48 pm

KS Kansas City


9h 11m

UNIT 37



05:00 pm

None

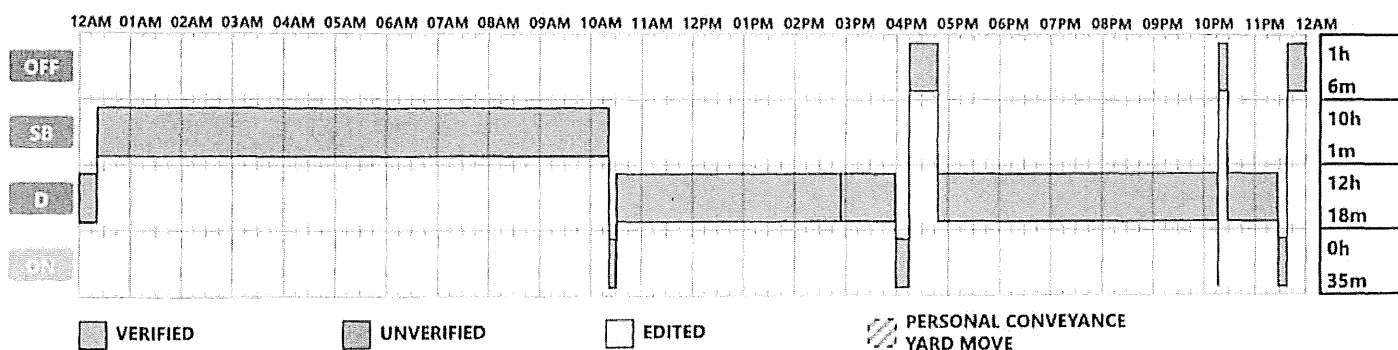
 Unassigned from No vehicle

ATTACHMENT “C”

Signature:

Shipper, Commodity and Document Number:

All times below are in America/Chicago



D

✓ Continued from previous day

21m 7s

None

SB

✓ 12:21 am 4mi NE TX New Braunfels

10h 0m

None

1

12:32 am 4mi NE TX New Braunfels

None

Engine shutdown

1

09:08 am 4mi NE TX New Braunfels

None

 Engine power up

10

09:14 am 4mi NE TX New Braunfels

None

Engine shutdown

10:09 am 4mi NE TX New Braunfels

None

 Engine power up

CONCLUSIONS

✓ 10:21 am 4mi NE TX New Braunfels

8m 31s

None

D	✓ 10:30 am	4mi NE TX New Braunfels	4h 24m	None
D	✓ 02:54 pm	2mi SW TX Denton	1h 4m	None
ON	✓ 03:58 pm	16mi S OK Ardmore	6s	None
ON	✓ 03:58 pm	16mi S OK Ardmore	15m 45s	None
Fuel diésel				
OFF	✓ 04:14 pm	16mi S OK Ardmore	33m 28s	None
30 break				
!	04:15 pm	16mi S OK Ardmore		None
Engine shutdown				
!	04:46 pm	16mi S OK Ardmore		None
Engine power up				
D	✓ 04:48 pm	16mi S OK Ardmore	5h 28m	None
INT-D	05:48 pm	8mi NW OK Pauls Valley		None
INT-D	06:48 pm	4mi SE OK Edmond		None
INT-D	07:48 pm	12mi SSW OK Blackwell		None
INT-D	08:48 pm	KS Wichita		None
INT-D	09:48 pm	8mi WSW KS Emporia		None
ON	✓ 10:16 pm	24mi E KS Emporia	10s	None
OFF	✓ 10:17 pm	24mi E KS Emporia	10m 40s	None

Adverse weather is applied at 2019-04-19 22:25

CERTIFICATE OF SERVICE

20-TRAM-093-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 09/06/2019.

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

OCTAVIO SOSA, PRESIDENT
TX VALLEY PRODUCE AND MEAT DISTRIBUTION INC
1201 S 12TH STREET
KANSAS CITY, KS 66105-1612
Fax: 913-621-8611
txvalleytransport@gmail.com

/S/ DeeAnn Shupe

DeeAnn Shupe