



1500 SW Arrowhead Road  
Topeka, KS 66604-4027

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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

November 9, 2017

18-TRAM-186-PEN

Gerald Gilkey, Safety Director  
Bob Bergkamp Construction Co., Inc.  
3709 South West Street  
Wichita, Kansas 67217

This is a notice of a penalty assessment against Bob Bergkamp Construction Co., Inc. (Bob Bergkamp Construction) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 2, 2017, by Kansas Corporation Commission Special Investigator Gary Goeller. Penalty amounts 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 and terms and obligations, please refer to the Penalty Order attached to this notice.

### IF YOU ACCEPT THE PENALTY:

Bob Bergkamp Construction has been assessed a \$1,000 penalty. You have thirty (30) days from the date of service of this Penalty Order to pay the fine, unless you choose the reduced penalty option explained below. Please remit payment of \$1,000 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.

### **BOB BERGKAMP CONSTRUCTION IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS:**

New Entrant motor carriers are eligible for a one-time, fifty-percent (50%) reduction in the penalty(s) assessed motor carriers. You have to agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. A fifty-percent (50%) reduction in the penalty assessed in the attached Order is available if:

(1) the carrier signs and submits within fifteen (15) days from the date of this Penalty Order, the attached Reduced Penalty Agreement to Litigation Counsel at the above address;

(2) within 30 days from the date of the Penalty Order, the carrier submits to Transportation Staff an approved Corrective Action Plan (CAP) documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future;

(3) within thirty (30) days from the date of the Penalty Order, the carrier sends an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance must be submitted to the undersigned Litigation Counsel shortly thereafter; and

(4) within 18 months from the date of the Penalty Order, the carrier must submit a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

If a carrier is approved for a fifty-percent (50%) reduction, an Order Amending Penalty Assessment assessing the reduced penalty and setting out the terms and conditions stated above will be issued by the Commission. Payment of the reduced penalty of \$500 would be due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

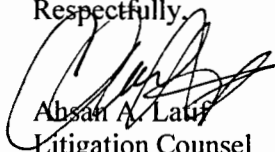
**IF YOU CONTEST THE PENALTY ORDER:**

**You have the right to request a hearing if you contest the terms of the Penalty Order.** A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Bob Bergkamp Construction Co., Inc. 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 Litigation Counsel at the above address. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2016 Supp. 77-542.

**IF YOU FAIL TO ACT:**

Failure to adhere to the terms and obligations set out in the attached Penalty Order, including payment of the penalty of \$1,000 within thirty (30) days from the date of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of the Penalty Order, will result in the Order becoming final and the terms and conditions set out therein will be enforced. If Bob Bergkamp Construction submits the attached Reduced Penalty Agreement as explained above, an Order Amending Penalty Assessment may be issued assessing the reduced penalty of \$500 and that payment will become due within thirty (30) days from the date of service of the Order Amending Penalty Assessment.

Respectfully,



Ahsan A. Latif  
Litigation Counsel  
(785) 271-3118  
a.latif@kcc.ks.gov

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



Phone: 785-271-3100  
Fax: 785-271-3354  
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Pat Apple, Chairman  
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Jay Scott Emler, Commissioner

Sam Brownback, Governor

## **REDUCED PENALTY AGREEMENT**

### **18-TRAM-186-PEN**

Bob Bergkamp Construction Co., Inc. (Bob Bergkamp Construction) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated November 9, 2017. Bob Bergkamp Construction has agreed to comply with the following terms and obligations:

1. Bob Bergkamp Construction has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.
2. Bob Bergkamp Construction will, within 30 days from the date of the Penalty Order, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining its efforts and concrete steps taken to ensure the violation(s) do not occur in the future. I understand the CAP must be approved by Transportation Staff to become eligible for the 50% reduced penalty.
3. Bob Bergkamp Construction will, within thirty (30) days from the date of the Penalty Order, send an individual responsible for safety compliance to attend a Commission-sponsored safety seminar, and proof of attendance will be submitted to the Litigation Counsel.
4. Bob Bergkamp Construction will be available within eighteen (18) months from the date of the Penalty Order for a follow-up Safety Compliance Review. Transportation Staff will contact the carrier to schedule the review.

Bob Bergkamp Construction Co., Inc. understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$500, and set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Bob Bergkamp Construction will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Bob Bergkamp Construction Co., Inc.

\_\_\_\_\_  
Gerald Gilkey  
Safety Director

(This Agreement can be mailed via U.S. Mail to the address above to the attention of Ahsan Latif, Litigation Counsel, or sent via e-mail to [v.jacobsen@kcc.ks.gov](mailto:v.jacobsen@kcc.ks.gov) and [alatif@kcc.ks.gov](mailto:alatif@kcc.ks.gov).)

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

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

In the Matter of the Investigation of **Bob** )  
**Bergkamp Construction Co., Inc., of Wichita,** )  
**Kansas,** Regarding the Violation of the Motor )  
Carrier Safety Statutes, Rules and Regulations ) Docket No. 18-TRAM-186-PEN  
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.S.A. 2016 Supp. 66-1,108b, 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.S.A. 2016 Supp. 66-1,108, 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. 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 order a hearing 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. Bob Bergkamp Construction Co., Inc. (Bob Bergkamp Construction) has private and common operating authority with the Commission and further operates under USDOT number 1024188.

5. Matthew Rossi attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on June 23, 2014, on behalf of Bob Bergkamp Construction.

6. Bob Bergkamp Construction is a private and common motor carrier which primarily hauls general freight, building materials, machinery, large objects, liquids/gases in cargo tanks, and construction.

7. Bob Bergkamp Construction is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below.

## **III. STATEMENT OF FACTS**

8. Pursuant to the jurisdiction and authority cited above, on October 2, 2017, Commission Staff (Staff) Special Investigator Gary Goeller conducted a compliance review of the operations of Bob Bergkamp Construction. A copy of the safety compliance review is attached hereto 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 October 4, 2016, Bob Bergkamp Construction required or permitted its driver, Danny W. O'Neal, to operate a commercial motor vehicle, a 2015 Dodge pickup, VIN ending in 553141, GVWR 10,000 lbs., pulling a 1,000 gallon Cargo tank trailer, VIN ending in 8460, GVWR 9,000 lbs., transporting diesel fuel, Class 3 Packaging group III, Combustible Liquid in intrastate commerce from McPherson, Kansas to Wichita, Kansas. This trip is evidenced by Driver/Vehicle Examination Report No. KSHP04231249, dated October 4, 2016, a copy of which is attached hereto as Attachment "A" and is hereby incorporated by reference. At the time of this transportation, Bob Bergkamp Construction failed to register with the Pipeline and Hazardous Materials Safety Administration prior to transporting hazardous material. The carrier's hazardous material registration had expired on June 30, 2016. Bob Bergkamp Construction's failure to complete a registration statement with the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, when transporting hazardous material subject to requirements of 49 C.F.R. 107.601, is a violation of 49 C.F.R. 107.608(a), adopted by K.A.R. 82-4-20, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$500.
- b. During the transportation described in paragraph a., above, Bob Bergkamp Construction failed to retain a record of training provided to Danny W. O'Neal as a result of him being a hazardous material driver. The carrier's failure to create and retain a record of current training of each hazmat

employee, inclusive of the preceding three years, for as long as that employee is employed as a hazmat employee and for 90 days thereafter is a violation of 49 C.F.R. 172.704(b), adopted by K.A.R. 82-4-20, and authorized by K.S.A. 2016 Supp. 66-1,129. Staff recommends a fine of \$500.

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

9. Based upon the available facts, Staff recommends the Commission find Bob Bergkamp Construction 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.

10. Staff recommends a civil penalty of \$1,000 for two (2) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff provides notice to the Commission that Bob Bergkamp Construction Co., Inc. is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduced civil penalty. The carrier must submit to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the signed and dated Reduced Penalty Agreement and Transportation Staff must approve the carrier's Corrective Action Plan (CAP).

12. Staff recommends Bob Bergkamp Construction Co., Inc. submit a Corrective Action Plan (CAP) within 30 days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do

not occur in the future. The CAP must be approved by Transportation Staff to qualify for the fifty-percent (50%) discount.

13. Staff further recommends that a representative from Bob Bergkamp Construction attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel.

14. Finally, Staff recommends that Bob Bergkamp Construction submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

#### **V. CONCLUSIONS OF LAW**

15. The Commission finds it has jurisdiction over Bob Bergkamp Construction because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$1,000 should be assessed to Bob Bergkamp Construction for committing 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.

17. The Commission finds Bob Bergkamp Construction is a New Entrant motor carrier and may be eligible for a fifty-percent (50%) reduction in the penalty(s) assessed herein.

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

A. Bob Bergkamp Construction Co., Inc., of Wichita, Kansas is hereby assessed a penalty of \$1,000 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. Payment of \$1,000 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 owed.

B. A representative from Bob Bergkamp Construction is ordered to attend a Commission-sponsored safety meeting within ninety (90) days from the date of this Order, and provide proof of attendance to Litigation Counsel. 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).

C. Bob Bergkamp Construction must submit a Corrective Action Plan (CAP) within thirty (30) days of the date of this Penalty Order, to Transportation Staff, documenting the violation(s) described in the attached Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Bob Bergkamp Construction 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 motor carrier at a later date to determine an appropriate time for this review.

E. If Bob Bergkamp Construction does not submit the Reduced Penalty Agreement and fails to pay the penalty(s) of \$1,000 within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or fails to comply with the provisions of this Order, the Commission will have the right to order further sanctions, including suspension of Bob Bergkamp Construction's motor carrier operating authority without further notice. Additionally, the Commission may issue and enforce revocation of motor carrier authority and/or issue cease

and desist order(s), and may order other remedies available to the Commission by law, without further notice.

F. On November 9, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105742888. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt.

G. **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, within fifteen (15) days from the date of service of this Penalty Order.** The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, and a copy mailed to the Litigation Counsel within fifteen (15) days from the date of service of this Order. If you do not have access to the internet, you can mail an original and seven (7) copies of the request to the Commission's Secretary, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Bob Bergkamp Construction's right to a hearing.


H. 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 of \$500 or less, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2016 Supp. 66-1,142b(e) and amendments thereto.

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.**

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated: NOV 09 2017

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

AAL

Order Mailed Date

NOV 09 2017

**ATTACHMENT "A"**



US DOT #  
1024188

Legal: BOB BERGKAMP CONSTRUCTION CO, INC.  
Operating (DBA):

MC/MX #: 000000 State #: [REDACTED] Federal Tax ID: [REDACTED] (EIN)

Review Type: Compliance Review (CR)

Scope: Principal Office Location of Review/Audit: Company facility in the U. S. Territory: F

Operation Types Interstate Intrastate

Carrier: HM HM  
Shipper: N/A N/A  
Cargo Tank: N/A

Business: Corporation  
Gross Revenue: [REDACTED] for year ending: 2/25/2017

Company Physical Address:

[REDACTED]

Contact Name: Gerald Gilkey  
Phone numbers: (1) [REDACTED] Fax  
E-Mail Address: [REDACTED]

Company Mailing Address:

3709 SOUTH WEST STREET  
WICHITA, KS 67217-3803

Carrier Classification

Authorized for Hire Private Property

Cargo Classification

General Freight Building Materials Machinery, Large Objects  
Liquids / Gases in Cargo Tanks Construction

Hazardous Materials

3 Combustible liquid : Carried Bulk 9 Miscellaneous HM Carried Non-Bulk

Equipment

	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Truck	10	0	0	Truck Tractor	19	0	0
Trailer	86	0	0	HM Cargo Tank Trailer	22	0	0

Power units used in the U.S.:29

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

Does carrier transport placardable quantities of HM? Yes

Is an HM Permit required? N/A

Driver Information

	Inter	Intra	
< 100 Miles:			Average trip leased drivers/month: 0
>= 100 Miles:	26		Total Drivers: 26
			CDL Drivers:





**BOB BERGKAMP CONSTRUCTION CO INC**  
U.S. DOT #: 1024188

State #: [REDACTED]

Review Date:  
10/02/2017

**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: Gerald Gilkey

Title: Safety Director

Name: [REDACTED]



**BOB BERGKAMP CONSTRUCTION CO INC**  
 U.S. DOT #: 1024188

State #: [REDACTED]

Review Date:  
 10/02/2017

**Part B Violations**

1 FEDERAL	Primary: 107.608(b)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
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**Description**

Transporting a hazardous material without having registered with the Department, under Subpart G of Part 107.

**Example**

Trip date 10.04.2016

SHIPPING Document #

HM Registration effective from 07.01.2013- 06.30.2016 HM Registration # 100913 550 013VX

Carrier transported 1000 gallon cargo tank trailer KS Tag [REDACTED], KS VIN # [REDACTED], gvr 9000, pulled by a 2015 Dodge Pickup KS tag [REDACTED], KS VIN# [REDACTED] 553141, GVWR 10,000, on a trip from McPherson, KS to Wichtia, KS, a placarded amount of Class 3 combustable with expired Hazardous Materials Certificate of Registration. HM Reg expired on 06.30.2016

2 FEDERAL	Primary: 172.704(d)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
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**Description**

Failing to retain a record of training provided to a hazardous material employee, including any requirement not met in 172.704(d).

**Example**

Hire Date 09.12.1990

Trip date 10.04.2016

Carrier failed to document recurrent training dates provided to a Hazardous Material Employee.

SHIPPING Document # Generic

HM Registration effective from 07.01.2013- 06.30.2016 HM Registration # 100913 550 013VX

Carrier transported 1000 gallon cargo tank trailer KS Tag [REDACTED], KS VIN # [REDACTED], gvr 9000, pulled by a 2015 Dodge Pickup KS tag [REDACTED], KS VIN# [REDACTED] 553141, GVWR 10,000, on a trip from McPherson, KS to Wichtia, KS, a placarded amount of Class 3 combustable with expired Hazardous Materials Certificate of Registration. HM Reg expired on 06.30.2016

3 STATE	Primary: 395.8 (f)(3) CFR Equivalent: 395.8(f)	Discovered 1	Checked 240	Drivers/Vehicles In Violation 1	Checked 8
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**Description**

Date of the 24 hour period not listed on Record of duty status

**Example**

Trip date 08.03.2017

Driver failed to write date on log sheet.

<b>Safety Fitness Rating Information:</b> Total Miles Operated 200,000 Recordable Accidents 0 Recordable Accidents/Million Miles 0.00		OOS Vehicle (CR): 0 Number of Vehicle Inspected (CR): 0 OOS Vehicle (MCMIS): 1 Number of Vehicles Inspected (MCMIS): 4	
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**BOB BERGKAMP CONSTRUCTION CO INC**  
U.S. DOT #: 1024188

State #: [REDACTED]

Review Date:  
10/02/2017

### Part B Violations

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	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.







**BOB BERGKAMP CONSTRUCTION CO INC**  
U.S. DOT #: 1024188

State #: XXXXXXXXXX

Review Date:  
10/02/2017

## 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.

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



BOB BERGKAMP CONSTRUCTION CO INC  
U.S. DOT #: 1024188

State # [REDACTED]

Review Date:  
10/02/2017

### Part B Requirements and/or Recommendations

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. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA website for a current list of suppliers. [www.fmcsa.dot.gov/safety-security/eta/index.htm](http://www.fmcsa.dot.gov/safety-security/eta/index.htm)
3. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
4. Conduct periodic internal reviews of your maintenance, hazardous materials handling, driver qualification, hours of service control, accident reporting, training, and other safety systems to ensure continued compliance.
5. Ensure that all employees who handle hazardous materials are properly trained as required. See Subpart H of part 172 of Title 49, Code of Federal Regulations (CFR).
6. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance. You may contact me: KCC Special Investigator Gary Goeller at 785-623-0541 or email at [g.goeller@kcc.ks.gov](mailto:g.goeller@kcc.ks.gov)
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 BOB BERGKAMP CONSTRUCTION CO INC's vehicles operating authority and/or the impoundment of BOB BERGKAMP CONSTRUCTION CO INC's vehicles.

Signed \_\_\_\_\_

Date 10 3 2017



**ATTACHMENT "B"**

**DRIVER/VEHICLE EXAMINATION REPORT**

**Kansas Highway Patrol**  
**MOTOR CARRIER SAFETY ASSISTANCE**  
 700 SW Jackson, Ste 704  
 Topeka, KS 66603  
 Phone: (785)296-7189 Fax: (785)296-2858

**Report Number: KSHPO4231249**  
**Inspection Date: 10/04/2016**  
**Start: 1:25 PM CT End: 2:15 PM CT**  
**Inspection Level: I - Full**  
**HM Inspection Type: Bulk**

**BOB BERGKAMP CONSTRUCTION CO INC**

**Driver: ONEAL, DANNY W**

WICHITA, KS, 67217-3803

**License#:** [REDACTED] **State: KS**

USDOT: 1024188

Phone: [REDACTED]

**Date of Birth:** [REDACTED]

MC/MX#:

Fax#: [REDACTED]

**CoDriver:**

**State#:**

**License#:**

**State:**

**Location: SEDGWICK COUNTY - 173**

**Milepost: 12**

**Shipper: BOB BERKAMP CONST.**

**Highway: I-235**

**Origin: MC PHERSON,KS**

**Bill of Lading: N/A**

**County:**

**Destination: WICHITA,KS**

**Cargo: FUEL TANK / TOOLS**

**VEHICLE IDENTIFICATION**

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	QOS Sticker
1	TR	DODG	2015	KS	[REDACTED]	43	[REDACTED]553141	10000		[REDACTED]	139626
2	ST	HMDE	2008	KS	[REDACTED]	FL03	[REDACTED]8460	9000		[REDACTED]	

**BRAKE ADJUSTMENTS**

Axle #	1	2	3	4
Right	N/A	N/A	N/A	N/A
Left	N/A	N/A	N/A	N/A
Chamber	HYDR	HYDR	ELEC	ELEC

**VIOLATIONS**

Section	Type	Unit	QOS	Citation #	Verify	Crash	Violations Disccovered
383.23A2	F	D	Y		N	N	Operating a CMV without a CDL
396.17C	F	2	N		N	N	Operating a CMV without proof of a periodic inspection
172.510	F	2	Y		U	N	Placard does not meet specifications

**HazMat:**

**Placard: Yes**

**Cargo Tank: NON**

**Special Checks: No data for special checks**

\* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare the above marked unit(s) as "OUT OF SERVICE". No person and/or carrier shall permit and/or require the removal of the "OUT OF SERVICE" stickers or the operation of this motor vehicle until ALL out of service defects have been corrected. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials \_\_\_\_\_

\* Pursuant to the authority contained in Title 49, CFR; K.S.A. 66-1,129; K.C.C. Reg. 82-4-3, I hereby declare DANNY ONEAL "OUT OF SERVICE". No person and/or carrier shall permit and/or require this driver to operate any commercial vehicle until: HAS A VALID CDL FOR CLASS OF VEHICLE DRI. This Out of Service condition may result in the assessment of a Civil Penalty being issued against the Carrier indicated on this report. Driver Initials \_\_\_\_\_

\* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature. Signature Of Repairer X: \_\_\_\_\_ Facility: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*/\*\* DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION \*\*/\*\* \*CARRIER CERTIFICATION: All defects on this sheet must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form. Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Report Prepared By: Badge #:**  
 M. Mullen 0423

**Copy Received By:**  
 DANNY ONEAL

X

X



**CERTIFICATE OF SERVICE**

18-TRAM-186-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 NOV 09 2017.

GERALD GILKEY, SAFETY DIRECTOR  
BOB BERGKAMP CONSTRUCTION CO., INC.  
3709 SOUTH WEST STREET  
WICHITA, KS 67217  
Fax: 316-522-5296  
ggilkey@bergkampconstruction.com

AHSAN LATIF, LITIGATION COUNSEL  
KANSAS CORPORATION COMMISSION  
1500 SW ARROWHEAD RD  
TOPEKA, KS 66604-4027  
Fax: 785-271-3354  
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe  
DeeAnn Shupe

Order Mailed Date  
NOV 09 2017