

1500 SW Arrowhead Road
Topeka, KS 66604-4027

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



20170627161841
Kansas Corporation Commission

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

Sam Brownback, Governor

NOTICE OF PENALTY ASSESSMENT

17-TRAM-558-PEN

June 27, 2017

Randall Kemp, General Manager
Eskridge Lumber, LLC
104 E 1st Ave
Eskridge, Kansas 66423

Certified Mail Receipt No. 70161970000105740495

This is a notice of a penalty assessment against Eskridge Lumber, LLC for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on June 12, 2017, by Kansas Corporation Commission Special Investigator(s) Jared Smith. For a full description of the penalty and terms and obligations, please refer to the Penalty Order that is attached to this notice.

IF YOU ACCEPT THE PENALTY:

Eskridge Lumber has been assessed a \$250 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 \$250, through your personal account with the Kansas Corporation Commission's KTRAN application 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.

ESKRIDGE LUMBER IS A NEW ENTRANT MOTOR CARRIER AND IS 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 in accordance with the FY 2017 Uniform Penalty Assessment Matrix. You have to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the fifty-percent (50%) 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 attached 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; and

(3) within thirty (30) days from the date of the attached 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.

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

If a carrier is approved for the fifty-percent (50%) reduced penalty, a Motion to Amend Penalty Order, along with the Reduced Penalty Agreement will be filed with the Commission. An Amended

Penalty Order assessing the reduced penalty and setting out the terms and conditions stated above will be issued by the Commission shortly thereafter. Payment of the reduced penalty of \$125 would be due within thirty (30) days from the date of service of the Amended Penalty Order.

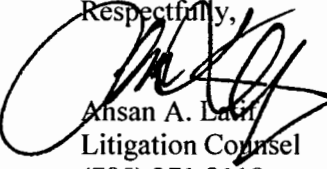
IF YOU CONTEST THE PENALTY ORDER:

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. Eskridge Lumber, LLC 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 by mailing 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, within fifteen (15) days from the date of service of this Penalty Order 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 \$250 within thirty (30) days from the date of service of this Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from the date of service of this Penalty Order, will result in the Order becoming a final Penalty Order and the terms and conditions set out therein will be enforced. If Eskridge Lumber submits the attached Reduced Penalty Agreement as explained above, an Amended Penalty order may be issued assessing the reduced penalty of \$125 and that payment will become due within thirty (30) days from the date of service of the Amended Penalty Order.

Respectfully,



Ansan 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
<http://kcc.ks.gov/>

Pat Apple, Chairman
Shari Feist Albrecht, Commissioner
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REDUCED PENALTY AGREEMENT

17-TRAM-558-PEN

Eskridge Lumber, LLC hereby submits this Reduced Penalty Agreement to become eligible for a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated June 27, 2017. Eskridge Lumber has agreed to comply with the following terms and obligations:

1. Eskridge Lumber has submitted, within fifteen (15) days from the date of the Penalty Order issued on June 27, 2017, this signed and dated Reduced Penalty Agreement to Litigation Counsel at the above address.

2. Eskridge Lumber will, within 30 days from the date of the Penalty Order dated June 27, 2017, submit to Transportation Staff a Corrective Action Plan (CAP) documenting the violation(s) and describing specific and detailed information explaining the 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 before my company can be eligible for the 50% reduced penalty.

3. Eskridge Lumber will, within thirty (30) days from the date of the Penalty Order dated June 27, 2017, 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. Eskridge Lumber 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.

Eskridge Lumber, LLC understands that if approved, Transportation Litigation Counsel will file a Motion for Amended Penalty Order with this Agreement attached to the motion. The Amended Penalty Order will assess Eskridge Lumber a fifty-percent (50%) reduced penalty of \$125, and set out the terms and conditions stated above. Once the Amended Penalty Order is issued by the Commission, Eskridge Lumber will have thirty (30) days from the date of service of the Amended Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2017.

Eskridge Lumber, LLC

Randall Kemp
General Manager

(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 and 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 **Eskridge**)
Lumber, LLC, of Eskridge, Kansas, Regarding)
the Violation of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 17-TRAM-558-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). The Commission, having been briefed on the issue by the Director of the Commission's Transportation Division, 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. Eskridge Lumber, LLC (Eskridge Lumber) has private operating authority from the Commission and further operates under USDOT number 2891338.

5. Randall Kemp attended a Commission-sponsored Motor Carrier Education and Instructional Meeting on May 2, 2016, on behalf of Eskridge Lumber.

6. Eskridge Lumber is a private motor carrier which primarily hauls logs, poles, beams, lumber, building materials, and hardware.

7. Eskridge Lumber is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction of the penalty(s) assessed below in accordance with the FY 2017 Uniform Penalty Assessment Matrix.

III. STATEMENT OF FACTS

8. Pursuant to the jurisdiction and authority cited above, on June 12, 2017, Commission Staff (Staff) Special Investigator(s) Jared Smith conducted a compliance review of the operations of Eskridge Lumber. 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, Mr. Smith identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 9, 2017, Eskridge Lumber required or permitted its driver, Randall Kemp, to operate a CDL-required commercial motor vehicle, a 1996 Ford 750, VIN ending in 29686, GVWR 28,000 lbs., in intrastate

commerce from Eskridge, Kansas to Topeka, Kansas. This trip is evidenced by Driver's Time Record (150 air-mile radius), a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Eskridge Lumber failed to ensure that each CDL driver had an equal chance of being selected for random alcohol and controlled substances testing each time selections are made. The carrier had listed on the random pool a driver that is not a CDL driver. Eskridge Lumber'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. 2016 Supp. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

9. Based upon the available facts, Staff recommends the Commission find Eskridge Lumber 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.

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

11. Staff provides notice to the Commission that Eskridge Lumber, LLC is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduced civil penalty if it submits

to Litigation Counsel within fifteen (15) days of the date of this Penalty Order the Reduced Penalty Agreement, which is attached to the Notice of Penalty Assessment.

12. Staff recommends Eskridge Lumber, LLC 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 the 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 Eskridge Lumber 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 Eskridge Lumber 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 Eskridge Lumber because it is a motor carrier as defined in K.S.A. 2016 Supp. 66-1,108.

16. The Commission finds a penalty of \$250 should be assessed to Eskridge Lumber for committing 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.

17. The Commission finds Eskridge Lumber is a New Entrant motor carrier and is eligible for a fifty-percent (50%) reduction in the penalty(s) assessed motor carriers in accordance with the FY 2017 Uniform Penalty Assessment Matrix. The carrier must submit to Litigation Counsel, within fifteen (15) days from the date of this Penalty Order, the signed and dated Reduced Penalty Agreement, which states it will comply with the reduced penalty terms and obligations set out therein.

THE COMMISSION THEREFORE ORDERS THAT:

A. Eskridge Lumber, LLC, of Eskridge, Kansas is hereby assessed a penalty of \$250 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. Payment of \$250 must be made through your personal account with the Kansas Corporation Commission's KTRAN application 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.

B. Eskridge Lumber 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 the safety seminar can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

C. Eskridge Lumber 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. Eskridge Lumber 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 Eskridge Lumber does not submit the Reduced Penalty Agreement and fails to pay the full penalty(s) of \$250 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 Eskridge Lumber'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. 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 within fifteen (15) days from the date of service of this Order. On June 27, 2017, this Order was mailed via Certified Mail, Return Receipt Requested, Receipt Number 70161970000105740495. Service of this Order is deemed complete upon the date delivered shown on the Domestic Return Receipt. A hearing

will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Eskridge Lumber's right to a hearing.

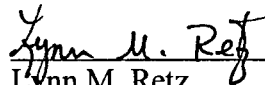
G. Attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination 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.

H. 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: JUN 27 2017




Lynn M. Retz
Secretary to the Commission

AAL

Order Mailed Date

JUN 28 2017

ATTACHMENT "A"

	US DOT # 2891338	Legal: ESKRIDGE LUMBER, LLC Operating (DBA):	
MC/MX #:		State #: [REDACTED]	Federal Tax ID: [REDACTED] (EIN)
Review Type: Non-ratable Review - CSA			
Scope: Principal Office		Location of Review/Audit: Company facility in the U. S. Territory:	
Operation Types		Interstate	Intrastate
Carrier: N/A		Non-HM	Business: Corporation
Shipper: N/A		N/A	Gross Revenue: [REDACTED] for year ending: 12/31/2016
Cargo Tank: N/A			
Company Physical Address: [REDACTED]			
Contact Name: Randall Kemp			
Phone numbers: (1) [REDACTED]			
E-Mail Address: [REDACTED]			
Company Mailing Address: 104 E 1ST AVE ESKRIDGE, KS 66423-9750			
Carrier Classification Private Property			
Cargo Classification Logs, Poles, Beams, Lumber Building Materials Other: Hardware			
Equipment			
	Owned	Term Leased	Trip Leased
Truck	1	0	0
Power units used in the U.S.: 1			
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			
	Inter	Intra	Average trip leased drivers/month: 0
< 100 Miles:		1	Total Drivers: 1
>= 100 Miles:			CDL Drivers: 1





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Part A

QUESTIONS regarding this report or the Federal Motor Carrier Safety or
Hazardous Materials rules may be addressed to the Kansas Corporation Commission at:

1500 SW Arrowhead Road
Topeka, KS 66604
Phone 913-755-1289

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Randall Kemp

Title: General Manager

Name:

Title:





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Part B Violations

1 STATE	Primary: 382.305(i)(2) CFR Equivalent: 382.305(i)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
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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 5/9/17 Eskridge Lumber LLC had driver [REDACTED] (KS CDL # [REDACTED]) operate a 1996 Ford 750 (Unit # 2 VIN # [REDACTED] 29686) in intrastate commerce. This vehicle has a gross vehicle weight rating of 28,000 lbs. Driver [REDACTED] operated in commerce on an intrastate trip from Eskridge, Kansas to Topeka, Kansas. This trip is evidenced by a driver's record of duty status and invoice. At the time of this trip and time of this review 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 STATE	Primary: 391.51(b)(5) CFR Equivalent: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Example

On 5/9/17 Eskridge Lumber LLC had driver [REDACTED] (KS CDL # [REDACTED]) operate a 1996 Ford 750 (Unit # 2 VIN # [REDACTED] 29686) in intrastate commerce. This vehicle has a gross vehicle weight rating of 28,000 lbs. Driver [REDACTED] operated in commerce on an intrastate trip from Eskridge, Kansas to Topeka, Kansas. This trip is evidenced by a driver's record of duty status and invoice. At the time of this trip, carrier was found to be in violation of failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25 (c) (2).

3 STATE	Primary: 391.51(b)(6) CFR Equivalent: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

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

Example

On 5/9/17 Eskridge Lumber LLC had driver [REDACTED] (KS CDL # [REDACTED]) operate a 1996 Ford 750 (Unit # 2 VIN # [REDACTED] 29686) in intrastate commerce. This vehicle has a gross vehicle weight rating of 28,000 lbs. Driver [REDACTED] operated in commerce on an intrastate trip from Eskridge, Kansas to Topeka, Kansas. This trip is evidenced by a driver's record of duty status and invoice. At the time of this trip, carrier was found to be in violation of failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Safety Fitness Rating Information:

Total Miles Operated 6,000
Recordable Accidents 0

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 :

This Review is not Rated.





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Safety Management Process Breakdowns and Remedies

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.

For all Investigations that could result in a Penalty Order:

- **PLEASE NOTE:** The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. 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 Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

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





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Safety Management Process Breakdowns and Remedies

2. 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.

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Eskridge Lumber LLC's violations occurred due to a breakdown regarding the monitoring and tracking elements of compliance within this section. Carrier has established an organized driver qualification file. That said, you need to improve the methodology for ensuring drivers have the requisite paperwork in their individual files. It is incumbent upon the carrier to execute all annual requirements for their commercial motor vehicle drivers. These duties and the documents verifying their completion require continued monitoring and tracking by carrier officials to ensure compliance. Utilize the documents and instructions provided to you during this review to assist you in correcting the deficiencies

BASIC SPECIFIC RECOMMENDED REMEDIES: Make sure that you have drivers complete a listing of driver violations when you run the MVRs. Then sign the certificate qualifying them for another year if they meet the standards. Utilize the documents provided to you at the time of this review to complete these requirements.

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

- Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Safety Management Process Breakdowns and Remedies

documenting the evaluations.

- Regularly evaluate the company's driver fitness-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 driver-fitness regulations and company policies.
- When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

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. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Training and Communication

DESCRIPTION OF PROCESS BREAKDOWN: Eskridge Lumber LLC's violation occurred due to a breakdown regarding the training and communication elements within this section. Carrier failed to ensure that non-CDL drivers were in different random testing pool than CDL drivers. Terminated non-CDL driver John Andrew Kemp was in the same random testing pool as active CDL driver Randall Kemp. This was the only violation discovered in this section of the regulations. Overall I observed compliance and the files were orderly and complete. Thus, this violation can only be broken down to a lapse in training and communication. Going forward, ensure that violations of this type do not occur again.

BASIC SPECIFIC RECOMMENDED REMEDIES: Ensure that if you choose to randomly test Non-CDL drivers that you keep them in a different random testing pool than your drivers that operate CDL required vehicles. Additionally ensure that drivers are removed or added to random testing as soon as they are hired or terminated.

Implement Safety Improvement Practices: The following are recommended practices related to Communication and Training.

- Convey expectations to all applicable staff for adhering to controlled substance and alcohol regulations and to company policies and procedures, and for executing responsibilities by providing new-hire and refresher training. Establish communication channels such as newsletters and/or meetings focused on resolving conflicts: for example, for drivers, between testing requirements and lifestyle decisions with regard to controlled substance and alcohol abuse or misuse.
- Encourage disclosure of personal problems with controlled substances and alcohol within a safe environment by having an open-door policy with management or using an Employee Assistance Program (EAP). An EAP enables drivers to alert management of concerns about other personnel and to seek help for their own substance abuse and/or alcohol problems.
- After selection of drivers for random testing, the program coordinator should send confidential correspondence to whoever is informing the selected drivers, noting the selection date, selected names, proper notification procedure, testing location, and when test results need to be completed. Drivers should be reminded that refusal to take the test will be equivalent to a positive result.
- Ensure that managers and supervisors regularly communicate and demonstrate their ongoing commitment to abiding by regulations and company policies regarding controlled-substance and alcohol use.
- Communicate the carrier's Controlled Substances and Alcohol BASIC percentile to all staff, and explain to them individually what they can do to help improve compliance.
- Provide new-hire and refresher training, to all drivers, managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a Substance Abuse Professional (SAP); and confidentiality requirements in relation to record keeping.
- Ensure that personnel in safety-sensitive positions receive required training on the importance of responsible lifestyle behaviors and personal choices regarding controlled-substance and alcohol use.
- Train all staff who are required to monitor and track controlled-substance and alcohol compliance on the appropriate company policies, including those related to discipline and incentives.





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/20/2017

Safety Management Process Breakdowns and Remedies

- Ensure that drivers are trained on driver Out-of-Service (OOS) rules, their responsibility in adhering to them, and the carrier's procedures for reporting OOS violations and communicating appropriately with other personnel.
- Reinforce training about controlled-substance and alcohol policies, procedures, and responsibilities to drivers, controlled-substance and alcohol-testing personnel, and other employees, using job aids, post-training testing, and/or refresher training. Encourage informal feedback among all involved with the testing so that they can help each other to improve.
- Provide hiring officials with guidance on how best to attract, screen, and qualify applicants who are most likely to adhere to controlled-substance and alcohol-use regulations and related company policies and procedures.

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 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 Eskridge Lumber LLC's operating authority and/or the impoundment of Eskridge Lumber LLC's vehicles.

Carrier Representative _____

Date _____





ESKRIDGE LUMBER LLC

U.S. DOT #: 2891338

State #: [REDACTED]

Review Date:

06/12/2017

Safety Management Process Breakdowns and Remedies

to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Eskridge Lumber LLC's operating authority and/or the impoundment of Eskridge Lumber LLC's vehicles.

Randall [Signature]
Carrier Representative

6-12-2017
Date



ATTACHMENT "B"

DRIVER'S TIME RECORD (150 air-mile radius)

Driver's Name (print)

Randy

Employee No.

.

Month

May

Year

2017

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

- *For Drivers NOT required to have a CDL.
- *Operates within 150 air-mile radius of the normal work reporting location.
- *Returns to normal work reporting location and is released from work within 14 consecutive hours.
- *At least 10 consecutive hours off duty separates each 14 hours on duty.

INTERMITTENT DRIVERS

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

Date	Start Time	End Time	Total Hours	Truck Number	Trip Information TO - FROM
1	7:30	5:00	8 1/2	#1	Esk - Top - S.L. - Esk
2	7:30	5:00	8 1/2	#1	Esk - Top - S.L. - Esk
3	7:30	5:00	8 1/2		not driving
4	7:30	5:00	8 1/2		— —
5	7:30	5:00	8 1/2	#1	Esk - Top - S.L. - Esk
6	7:30	12:00	4 1/2		not driving
7			OFF		
8	7:30	5:00	8 1/2		Esk - El Dorado - Esk
9	7:30	5:00	8 1/2		Esk - Top - S.L. - Esk
10	7:30	5:00	8 1/2		Esk - S.L. - Esk
11	7:30	5:00	8 1/2		not driving
12	7:30	5:00	8 1/2		— —
13	7:30	12:00	4 1/2		— —
14			OFF		
15	7:30	5:00	8 1/2	#1	Esk - Top - S.L. - Esk
16	7:30	5:00	8 1/2	#1	Esk - S.L. - Top - Esk
17	7:30	5:00	8 1/2		not driving
18	7:30	5:00	8 1/2		— —
19	7:30	5:00	8 1/2		— —
20	7:30	12:00	4 1/2		— —
21			OFF		
22	7:30	5:00	8 1/2	#2	Esk - Top - S.L. - Esk
23	7:30	5:00	8 1/2		not driving
24	7:30	5:00	8 1/2	#2	Esk - Top - Esk
25	7:30	5:00	8 1/2		not driving
26	7:30	5:00	8 1/2	#2	Esk - Top - Esk
27	7:30	12:00	4 1/2		not driving
28			OFF		
29			OFF		
30	7:30	5:00	8 1/2	#1	Esk - S.L. - Esk
31	7:30	5:00	8 1/2	#2	Esk - Top - S.L. - Esk

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

CERTIFICATE OF SERVICE

17-TRAM-558-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 **JUN 27 2017**.

RANDALL KEMP, GENERAL MANAGER
ESKRIDGE LUMBER, LLC
104 E 1ST AVE
ESKRIDGE, KS 66423-9750
Fax: 785-449-2212
eskridgelumberllc@gmail.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
JUN 28 2017