



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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

Susan K. Duffy, Chair
Shari Feist Albrecht, Commissioner
Dwight D. Keen, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT

February 20, 2020

20-TRAM-349-PEN

Gary, Alford
d/b/a Alford Towing
1316 SE 69 ALT HWY
Galena, KS 66739

This is a notice of a penalty assessment against Gary Alford, d/b/a Alford Towing (Alford Towing) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on January 22, 2020, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalty amounts 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 and terms and obligations, please refer to the Penalty Order attached to this notice.

IF YOU ACCEPT THE PENALTY:

Alford Towing has been assessed a \$1,200 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 \$1,200 through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

ALFORD TOWING IS A NEW ENTRANT MOTOR CARRIER AND MAY BE ELIGIBLE FOR A PENALTY REDUCTION OF FIFTY PERCENT (50%) UNDER THE FOLLOWING TERMS SET OUT IN THE ATTACHED REDUCED PENALTY AGREEMENT.

To become eligible, you must agree to meet the terms and obligations set out in the attached Reduced Penalty Agreement to be eligible for the reduction. The Reduced Penalty Agreement must be submitted to the Litigation Division within 15 days.

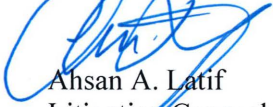
IF YOU CONTEST THE PENALTY ORDER:

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. Gary Alford, d/b/a Alford Towing 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 Executive Director 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. 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 \$1,200 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 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.

Respectfully,



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



1500 SW Arrowhead Road
Topeka, KS 66604-4027

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REDUCED PENALTY AGREEMENT

20-TRAM-349-PEN

Gary Alford, d/b/a Alford Towing (Alford Towing) hereby submits this Reduced Penalty Agreement for approval of a fifty percent (50%) reduction in the penalty assessed in the Penalty Order dated February 18, 2020. Alford Towing has agreed to comply with the following terms and obligations:

1. Alford Towing has submitted, within fifteen (15) days from the date of the Penalty Order this signed and dated Reduced Penalty Agreement to Litigation Counsel.

2. Alford Towing will, within thirty (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. Alford Towing 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. Alford Towing 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.

Gary Alford, d/b/a Alford Towing understands that if approved, an Order Amending Penalty Assessment will be issued by the Commission assessing a reduced penalty of \$600, and will set out the terms and conditions stated above. Once the Order Amending Penalty Assessment is issued by the Commission, Alford Towing will have thirty (30) days from the date of service of that Order to pay the reduced penalty assessed.

Dated this ____ day of _____, 2020.

Gary Alford, d/b/a Alford Towing

Gary
Alford

(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: Susan K. Duffy, Chair
 Shari Feist Albrecht
 Dwight D. Keen

In the Matter of the Investigation of **Gary**)
Alford, d/b/a Alford Towing, of Galena, KS,)
Regarding the Violation(s) of the Motor Carrier)
Safety Statutes, Rules and Regulations and the) Docket No. 20-TRAM-349-PEN
Commission's Authority to Impose Penalties,)
Sanctions and/or the Revocation of Motor)
Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. 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

3. Gary Alford, d/b/a Alford Towing (Alford Towing) has private and common operating authority with the Commission and further operates under USDOT number 2832479.

4. Gary Alford attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 26, 2016, on behalf of Alford Towing.

5. Alford Towing is a private and common motor carrier which primarily hauls motor vehicles.

6. Alford Towing 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

7. Pursuant to the jurisdiction and authority cited above, on January 22, 2020, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of Alford Towing. 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 four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On January 8, 2020, Alford Towing required or permitted its driver, Garric Alford, to operate a CDL-required commercial motor vehicle, a 2001 Ford F650 wrecker, VIN ending in 48609, GVWR 26,000 lbs., towing a 2020 Freightliner in intrastate commerce from Baxter Springs, Kansas to Galena, Kansas. This trip is evidenced by a towing ticket, dated January 8, 2020, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Alford Towing did not have implemented an alcohol and controlled

substance testing program for its CDL driver. The carrier's failure to establish an alcohol and controlled substances testing program for its CDL drivers that complies with the procedures established in 49 C.F.R. 382.105 as adopted by K.A.R. 82-4-3c is a violation of 49 C.F.R. 382.115(a), adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a, above, Alford Towing failed to make an inquiry every 12 months into the annual motor vehicle record (MVR) of its driver and maintain the response(s) of each state agency in the driver qualification file. The carrier's failure to inquire into its driver's MVR at least once every 12 months and maintain a copy of the MVR in the driver qualification file is a violation of 49 C.F.R. Part 391.25(a) and (c)(1), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,112. Staff recommends a fine of \$100.
- c. During the transportation described in paragraph a, above, Alford Towing failed to require its driver to be medically examined and certified as physically fit to operate a commercial motor vehicle. The carrier's failure to confirm that its driver is medically examined and certified prior to requiring or permitting the operation of a commercial motor vehicle and maintaining documentation of the medical certificate in the driver qualification file is a violation of 49 C.F.R. 391.41(a)(1)(i), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

- d. During the transportation described in paragraph a, above, Alford Towing used a driver that did not have a Class A Commercial Driver's License (CDL). The driver had a Class B driver's license. The carrier's failure to require its driver to operate a commercial motor vehicle without the driver taking and passing the written and driving tests for a CDL and obtaining a CDL license is a violation of 49 C.F.R. 383.23(a)(1), adopted by K.A.R. 82-4-3, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$500.

IV. STAFF'S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission find Alford Towing committed four (4) 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. Staff recommends a civil penalty of \$1,200 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff provides notice to the Commission that Gary Alford, d/b/a Alford Towing 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).

11. Staff recommends Gary Alford, d/b/a Alford Towing 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 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.

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

13. Finally, Staff recommends that Alford Towing 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

14. The Commission finds it has jurisdiction over Alford Towing because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds a penalty of \$1,200 should be assessed to Alford Towing for committing four (4) 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.

16. The Commission finds Alford Towing 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. Gary Alford, d/b/a Alford Towing, of Galena, KS is hereby assessed a penalty of \$1,200 for four (4) 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 \$1,200 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty owed.

B. A representative from Alford Towing 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.

C. Alford Towing 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 above, 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. Alford Towing 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 Alford Towing does not submit the Reduced Penalty Agreement and fails to pay the penalty of \$1,200 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 Alford Towing'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. 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. 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 Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Alford Towing's right to a hearing.

G. 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. 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.

Duffy, Chair; Albrecht, Commissioner; Keen, Commissioner

Dated: 02/20/2020



Lynn M. Retz
Executive Director

AAL

ATTACHMENT "A"

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 2832479
MC/MX#:

Legal: GARY ALFORD
Operating (DBA): ALFORD TOWING

Investigation Date:
01/22/20

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Other (820 West 12th Baxter Springs, Ks 66713)

Extent of Operations: Entire Operation

Physical Address | Mailing Address

816 WEST 9TH STREET
BAXTER SPRINGS, KS 66713
United States

1316 SE 69 Alternate Highway
Galena, KS 66739
United States

Contact Information

Contact Name: GARRIC ALFORD

Email: [REDACTED]
Phone: [REDACTED]

Business and Financial

Business Type: Sole Proprietorship

Gross Revenue: [REDACTED] For Year Ending: 12/31/18

Federal Tax ID: [REDACTED] (SN)

Operation Classification and Type | Cargo

Type of Operation: Non-HM Interstate Carrier

Motor Vehicles

Operation Classification

For-Hire Motor Carrier

Property

Hazardous Materials

Private Motor Carrier

Property – Hazardous Materials

Hazardous Materials

Which of the following hazardous materials requiring a Safety Permit does the company transport? None

Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E? N/A

Is an HM Permit required by any State? No

Hazardous Materials Class 9 Miscellaneous hazardous material = C, S, NB

Equipment			Driver Information		
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	Owned	Term Leased	Trip Leased	Drivers	
				Intrastate	Interstate
Straight Trucks	3				
				< 100 Miles	
Power units used in the U.S.:	2				
Percentage of time used in the U.S.:	100 0%			>= 100 Miles	2
				Average trip leased driver/month: 0	
				Drivers with CDL: 1	
				Total Drivers: 2	

Person(s) Interviewed

Name: GARY G ALFORD Title: OWNER
 Name: GARRIC ALFORD Title: Manager

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:
 1500 SW Arrowhead Rd
 Topeka, KS 66604-4027
 Phone: (785) 271-3151

This report will be used to assess your safety compliance.

Violations

1. Primary: 382.115(a)

Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.



Acute

Violations Discovered

Fed	State	Total
	1	1

Violations Checked

Fed	State	Total
	1	1

BASIC Impacted
Controlled
Substances/Alcohol

Rating Factor 2:
Driver = Part 382

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

At the time of this trip, and the time of this review, the carrier towed a 2020 Freightliner with a GVWR > 33000 lbs. as per CMV ID.

The carrier wrecker had a labeled GVWR of 26000 lbs. even. The carrier had other trips noted below that the 26000 lbs GVWR wrecker towed vehicles 10001 lbs GVWR or more vehicles.

Origination: Baxter Springs, Ks

Destination: Galena, Ks

1/26/19 2011 Dodge Ram GVWR 10001 TO 14000 lbs as per CMV ID

6/21/19 1987 Fleetwood motor home 14001 to 16000 GVWR as per CMV ID

Drivers/Vehicles

In Violation	Checked
1	1

2. Primary: 391.45(b)(1)

Secondary: 391.11(a)

Using a driver not medically examined and certified during the preceding 24 months.

Violations Discovered

Fed	State	Total
	1	1

Violations Checked

Fed	State	Total
	2	2

Drivers/Vehicles

In Violation	Checked
1	2

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

At the time of this trip, and the time of this review, the carrier towed a 2020 Freightliner

with a GVWR > 33000 lbs. as per CMV ID.

The carrier wrecker had a labeled GVWR of 26000 lbs. even. The carrier had other trips noted below that the 26000 lbs GVWR wrecker towed vehicles 10001 lbs GVWR or more vehicles.

Origination: Baxter Springs, Ks

Destination: Galena, Ks

The driver listed above was the only driver that could be documented as driving with a expired medical not renewed in the previous 24 months.

The above driver medical was dated 11-01-17 valid until 11-01-18

3. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Violations Discovered

Fed	State	Total
	1	1

Violations Checked

Fed	State	Total
	2	2

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

At the time of this trip, and the time of this review, the carrier had MVRs in the driver files that both were dated 2/2/16 valid through 2/2/17. This is when this carrier authority was started. This was not completed at least annually as required under this part.

Destination 820 w 12th Baxter Spring Ks

Origination Rural Baxter Springs 2 miles north 1 mile east of Baxter Springs Ks.

Drivers/Vehicles

In Violation	Checked
1	2

4. Primary: 391.51(b)(5)

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

Violations Discovered

Fed	State	Total
	2	2

Violations Checked

Fed	State	Total
	2	2

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

At the time of this trip, and the time of this review, the carrier had no annual review of drivers record in the drivers files.

Drivers/Vehicles

In Violation	Checked
2	2

5. Primary: 391.51(b)(6)

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

Violations Discovered

Fed	State	Total
	2	2

Violations Checked

Fed	State	Total
	2	2

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

Destination 820 w 12th Baxter Spring Ks

Origination Rural Baxter Springs 2 miles north 1 mile east of Baxter Springs Ks

At the time of this trip, and the time of this review, the carrier towed a 2020 Freightliner with a GVWR > 33000 lbs. as per CMV ID.

The carrier wrecker had a labeled GVWR of 26000 lbs. even. The carrier had other trips noted below that the 26000 lbs GVWR wrecker towed vehicles 10001 lbs GVWR or more vehicles.

1/26/19 2011 Dodge Ram GVWR 10001 TO 14000 lbs. as per CMV ID

6/21/19 1987 Fleetwood motor home 14001 to 16000 GVWR as per CMV ID

Drivers/Vehicles

In Violation	Checked
2	2

6. Primary: 392.2

State Equivalent: 8-2,125

Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Driver Fitness.

Violations Discovered

Fed	State	Total
	1	1

Violations Checked

Fed	State	Total
	1	1

Example/Notes:

Driver name, Garric E Alford

Trip date. 01/08/20

At the time of this trip, and the time of this review, the carrier/driver possessed a Class B CDL and with the trips listed below required a Class A CDL towed a 2020 Freightliner with a GVWR > 33000 lbs. as per CMV ID.

The carrier wrecker had a labeled GVWR of 26000 lbs. even. The carrier had other trips noted below that the 26000 lbs GVWR wrecker towed vehicles 10001 lbs GVWR or more vehicles.

Drivers/Vehicles

In Violation	Checked
1	1

Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Conditional	1	
Factor 3: Operational = Parts 392 and 395	Satisfactory		
Factor 4: Vehicle = Parts 393 and 396	Satisfactory		
OOS Vehicles (CR): 0			
Number of Vehicles Inspected (CR): 0			
OOS Vehicles (MCMIS): 0			
Number of Vehicles Inspected (MCMIS): 0			
OOS Rate: 0%			
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Satisfactory		
Factor 6: Accident Factor = Recordable Rate	Satisfactory	N/A	N/A
Total Miles Operated: 25,000			
Recordable Accidents: 0			
Recordable Accidents/Million Miles: 0.00			

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

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Controlled Substances/Alcohol Process Breakdown: Roles and Responsibilities

Carrier was unsure of the responsibilities to obtain Class A CDL and drug testing

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Ensure that managers are responsible for ascertaining that employees receive training concerning controlled substances and alcohol in accordance with State or Federal regulations and company policy
2. Regardless of carrier membership in a consortium, ensure that the carrier defines and documents the role and responsibilities of the designated employer representative (DER) in monitoring test procedures and checking results
3. If the carrier elects to join a consortium, ensure that the respective roles and responsibilities of the carrier and the consortium for controlled-substance and alcohol testing and reporting are defined and documented
4. Designate a manager to collect and evaluate all controlled-substance and alcohol-related customer complaints and their safety implications

BASIC: Controlled Substances/Alcohol Process Breakdown: Roles and Responsibilities

Carrier was unsure of the regulations per Class A CDL and drug testing in reference to wreckers.

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Ensure that managers are responsible for ascertaining that employees receive training concerning controlled substances and alcohol in accordance with State or Federal regulations and company policy
2. Regardless of carrier membership in a consortium, ensure that the carrier defines and documents the role and responsibilities of the designated employer representative (DER) in monitoring test procedures and checking results.
3. If the carrier elects to join a consortium, ensure that the respective roles and responsibilities of the carrier and the consortium for controlled-substance and alcohol testing and reporting are defined and documented

Recommendations

1. Acute and Critical Violations

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record. 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.

2. Additional Information

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

3. A copy of your profile can be obtained by accessing the Portal.

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>)

4. Employers are responsible for the compliance of 49 CFR Part 40.

Employers are responsible for their officers', employees', agents', consortia, and/or contractors' compliance with the requirements of 49 CFR Parts 40 and 382.

5. Obtain a copy of each driver's driving record and review it.

Obtain a copy of each driver's driving record and review it annually

6. CDL and drug testing rules apply.

Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.

7. Maintain a complete file documenting the qualification process.

Ensure that all drivers are fully and properly qualified before operating in interstate commerce. Maintain a complete file as required for each driver, documenting the qualification process.

8. Physically unqualified drivers cannot drive in interstate commerce

Do not allow physically unqualified drivers to drive in interstate commerce

9. Trained collection-site person required for drug testing.

Ensure that a trained collection-site person utilizing the proper collection materials and custody and control forms does drug-test collection.

10. Ensure that your testing site provides for privacy and security.

Ensure that your drug testing collection site provides for adequate privacy and security.

11. Ensure each drug-test is conducted using the "split-sample"

Ensure that each drug-test is conducted using the "split-sample" method of collection

12. Maintain all required controlled substance testing records.

Maintain all required alcohol and controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR.

13. Lab must provide a quarterly statistical summary of urinalysis.

Laboratory must transmit aggregate statistical summary on semi-annual basis

14. Maintain all required controlled substance testing records.

Maintain all required alcohol and controlled substance testing records including yearly summaries, quarterly summaries, test information, test results, records of training etc., as required by 49 CFR Parts 40 and 382 of the FMCSR.

15. Ensure that a trained technician conducts each alcohol test.

Ensure that a trained breath alcohol technician, using the prescribed testing forms, conducts each alcohol test

16. Ensure breath alcohol testing is conducted with approved devices.

Ensure that breath alcohol testing is conducted with approved devices. For information on approved devices check:

www.nhtsa.dot.gov/people/injury/alcohol/getdoc.pdf.

17. Use only certified testing laboratories.

Use only those laboratories certified by the Substance Abuse and Mental Health Services Administration for the analysis of urine specimens. For a list of certified laboratories check www.drugfreeworkplace.gov or call (301) 443-6014.

18. Retain supporting documents for 6 months.

Toll receipts and other on-the-road expense receipts, invoices, bills of lading, dispatch records, and other "supporting document" must be kept on file for six (6) months. This requirement also applies to records generated by the use of owner-operators. You may keep legible photocopies in lieu of originals.

19. Keep all driver vehicle inspection reports for 90 days.

Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.

20. Driver drug tests required.

Ensure that all drivers subject to pre-employment, random, reasonable cause, post accident, return to duty, and/or follow-up controlled substance testing are tested as required by 49 CFR Parts 40 and 382 of the FMCSR.

21. Employers must test for specific drugs.

DOT drug testing rules require that employers test for marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).

22. MRO must have knowledge of the drug regulations.

Ensure that the Medical Review Officer (MRO) used in your drug testing program is knowledgeable about the reporting and review of test results requirements of 49 CFR 40.33.

23. Who do I call?

For questions about DOT numbers or biennial updates: 800-832-5660 or 703-280-4001

For questions about licensing, authority or MC numbers: 202-366-9805

For questions about insurance: 202-385-2423

For household goods complaints: 888-DOT-SAFT (888-368-7238)

24. Drug and Alcohol Testing Company Policy (Educational Materials)

Provide employees with a written controlled substance and alcohol testing policy that complies with all the requirements noted in Part 382.601(b). Also, ensure you maintain a certificate signed by the employee certifying they have received your company drug and alcohol testing policy.

25. Part 40 Violations

Ensure that your drug and alcohol testing program conforms with all applicable parts of Part 40.

26. Alcohol Testing

Ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function. Drivers can be tested on their day off only for controlled substances. Once notified of their selection, drivers must proceed immediately to the testing facility. If a driver refuses to go, this should be considered as equivalent to a positive result.

27. Positive Drivers

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.

28. Random Test Selections

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.

29. New Hires

Ensure that applicants for safety-sensitive positions do not have a current controlled-substance and/or alcohol problem by querying them and checking with their previous employers regarding controlled-substance and alcohol violations, related background, conditions and behaviors indicative of controlled-substance and/or alcohol abuse or misuse, and by conducting pre-employment testing as required by regulation and company policy. Create a detailed written record of each inquiry.

Review and evaluate driver applicants' gaps in employment, frequent job changes, and incomplete applications. Require applicants to explain reasons for any gaps in their employment record in order to allay suspicion of controlled-substance and/or alcohol abuse or misuse.

30. Return to Duty Process

Do not allow a driver who has engaged in conduct prohibited by 49 CFR Part 382 to perform safety-sensitive functions until he/she

has met with a SAP, been evaluated by a SAP, has completed the training/treatment recommended by the SAP AND has been subject to a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or a return to duty controlled substances test with a negative result.

A driver that returns to duty after completing the return to duty process must have a follow up testing plan indicating a minimum of SIX unannounced follow up tests within the first twelve months.

31. MCS-150 biennial updates

Is Your Registration Information Current?

FMCSA requires carriers to update their registration data via a MCS-150 form every 24 months. Please review, verify and update your contact information, Vehicle Miles Travelled (VMT) and Power Unit (PU) data to ensure that it is current and accurate, since it is used in the new Carrier Safety Measurement System. You should access the system, review all the information and press the submit button. Once you've done this, the system will record that you've reviewed the information and you will be in compliance with the biennial update requirement.

https://li-public.fmcsa.dot.gov/LIVIEW/PKG_REGISTRATION.prc_option

32. Drug and Alcohol Clearinghouse

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov> . Implementation begins January 6, 2020.

33. State of Kansas Corrective Action Plan

For all Investigations that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action letter plan (CAP), addressing the measures taken to correct all 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 Submit the letter along with copies of your supporting evidence to:

e-mail: 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

CAP: The State of Kansas Correction Plan above is required action and if not completed within the required time frame of 30 days there are penalties that will be involved and issued to the carrier.

34. For All Investigation

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 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.

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

35. Acknowledgement of Review and Penalties

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 Gary Alford dba Alford Towing operating authority and/or the impoundment of Gary Alford dba Alford Towing vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans/penalty_assessment_table.htm

x GARY G. ALFORD
Printed

X Gary L. Alford
Signed

X MW Heenan 8213
Investigator Printed

X MW Heenan 8213
Investigator(s) Signed

ATTACHMENT "B"



ALFORD



TOWING

816 W. 9th Street, Baxter Springs, KS. 66713
(417) 529-8414

DATE 1-8-20	TIME 1:00	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	REQUESTED BY KHP
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LOCATION OF VEHICLE 400 bypass of center Rd
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NAME ATS Specialized Inc	PHONE
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ADDRESS 401 Alvine st	ZIP Gary Indiana 46406
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SPECIAL PROCEEDS	MILEAGE	TIME
unit no. 80176		_____
motor 606056		_____

YEAR 2020	MAKE/MODEL/COLOR Freightliner	DRIVER 216
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STATE Indiana	LIC. NO. 270 7694	VIN. [REDACTED] 8953
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PROBLEM REPORTED	SERVICE RENDERED	SPECIAL EQUIPMENT
<input type="checkbox"/> LOCK OUT <input type="checkbox"/> FLAT TIRE <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> WRECK <input type="checkbox"/> RECOVERY <input type="checkbox"/> NO START <input type="checkbox"/> JUMP START	<input type="checkbox"/> SLING/HOIST TOW <input checked="" type="checkbox"/> WHEEL LIFT <input checked="" type="checkbox"/> FLAT BED/RAMP <input checked="" type="checkbox"/> START <input type="checkbox"/> CLEAN-UP <input type="checkbox"/> REPO <input type="checkbox"/> INVESTIGATION	<input type="checkbox"/> SINGLE LINE WINCHING <input type="checkbox"/> DUAL LINE WINCHING <input type="checkbox"/> SNATCH BLOCKS <input type="checkbox"/> SCOTCH BLOCKS <input type="checkbox"/> DOLLY <input type="checkbox"/> WINCH OUT <input type="checkbox"/> SECOND TRUCK

VEHICLE TOWED TO S. Lot

REMARKS Time with trucks & labor on wreck scene and follow up investigation Storage \$100 per day PD 1-12-20 FFS ck	MILAGE CHARGE	212.00
	TOWING CHARGE	7650.00
	LABOR CHARGE	4275.00
	STORAGE CHARGE	600.00
	FEE'S	250.00
	Materials & Disposal	2350.00
X AUTHORIZED SIGNATURE	TOTAL	15237.00

THANK YOU FOR YOUR PATRONAGE!

CERTIFICATE OF SERVICE

20-TRAM-349-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 02/21/2020.

GARY ALFORD, OWNER
GARY ALFORD
D/B/A ALFORD TOWING
1316 SE 69 ALT HWY
GALENA, KS 66739
alfordtowing@yahoo.com

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

/S/ DeeAnn Shupe

DeeAnn Shupe