

1500 SW Arrowhead Road  
Topeka, KS 66604-4027



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

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

Sam Brownback, Governor

## NOTICE OF PENALTY ASSESSMENT

November 29, 2016

17-TRAM-217-PEN

Nick Weibert, Managing Member  
Cow Town Nutrition LLC  
746 2500 Ave  
Abilene, Kansas 67410

This is a notice of a penalty assessment for violation of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 21, 2016, by Kansas Corporation Commission Special Investigator Gregory Askren. For a full description of the penalty and process please refer to the Order that is attached to this notice.

### IF YOU ACCEPT THE PENALTY:

You have been assessed a \$950 penalty. You have thirty (30) days from service of this Penalty Order to pay the fine amount. Check or money order must be made payable to the Kansas Corporation Commission. Payment is to be mailed to the Transportation Division of the Kansas Corporation Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and must include a reference to the docket number of this proceeding. Credit card payment may be made by faxing your credit card information to the Transportation Office at 785-271-3124, using the KCC's credit card payment form found at <http://kcc.ks.gov/trans/creditcard.pdf>.

You must attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. 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](http://www.kcc.state.ks.us/trans/safety_meetings.htm).

You must submit to one follow-up safety compliance review within the next 18 months. Staff will contact you at a later date to determine an appropriate time for this review.

### IF YOU CONTEST THE PENALTY:

You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Respondent must submit 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 stamped on the last page of the Penalty Order. K.A.R. 82-1-215; K.S.A. 2015 Supp. 77-542.

### IF YOU FAIL TO ACT:

Failure to pay the fine amount within thirty (30) days of service of the Penalty Order, or in the alternative, provide a written request for a hearing within fifteen (15) days from service of the Penalty Order will result in the attached Order becoming a Final Order and may result in the additional sanction of suspension and/or revocation of your motor carrier operating authority.

Respectfully,



Ansan A. Latif  
Litigation Counsel  
(785) 271-3118

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

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

In the Matter of the Investigation of **Cow Town** )  
**Nutrition LLC, of Abilene, Kansas**, Regarding )  
the Violation of the Motor Carrier Safety )  
Statutes, Rules and Regulations and the ) Docket No. 17-TRAM-217-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. 2015 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. 2015 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. 2015 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. Cow Town Nutrition LLC (Cow Town Nutrition) operates under USDOT number 2166363.

5. Cow Town Nutrition sells ADM feed as a dealer. It owns one truck and one trailer and employs one CDL driver.

6. Cow Town Nutrition is a private motor carrier which primarily hauls grain, feed and hay.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on October 21, 2016, Commission Staff (Staff) Special Investigator Gregory Askren conducted a compliance review of the operations of Cow Town Nutrition. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, Mr. Askren identified four (4) violations of the Motor Carrier Safety Regulations.

- a. On October 14, 2016, Cow Town Nutrition required or permitted its driver, Nicholas M. Weibert, to operate a CDL-required commercial motor vehicle, a 2015 Chevy truck, VIN ending in 619604, GVWR 10,000 lbs., pulling a 2003 Trailman flatbed gooseneck trailer, VIN ending in 82459, GVWR 25,000 lbs., in intrastate commerce in and around the area of

Abilene, Kansas. This trip is evidenced by Invoice No. 3679, dated October 14, 2016, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. At the time of this transportation, Cow Town Nutrition did not have an alcohol and controlled substance random testing program for its CDL driver. The carrier's failure to establish an alcohol and/or controlled substances 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), as adopted by K.A.R. 82-4-3c, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$350.

- b. During the transportation described in paragraph a., above, Cow Town Nutrition 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), as adopted by K.A.R. 82-4-3g, as authorized by K.S.A. 2015 Supp. 66-1,112. Staff recommends a fine of \$100.
- c. During the transportation described in paragraph a., above, Cow Town Nutrition did not require its driver to make a record of duty status showing the start time, end time and total hours worked. The special investigator found eight (8) violations of this type. The carrier's failure to require its driver to keep records of duty status for each 24-hour period, or in the

alternative to maintain and retain time records described in 49 C.F.R. 395.1(e) under the short haul exemption, using the method described in 49 C.F.R. 395.8(a), and to submit the original record to the motor carrier within 13 days of creation is a violation of 49 C.F.R. 395.8(a) as adopted by K.A.R. 82-4-3a and authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine in the amount of \$250.

- d. During the transportation described in paragraph a., above, Cow Town Nutrition permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. The carrier's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(c), as adopted by K.A.R. 82-4-3j, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$250.

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

8. Based upon the available facts, Staff recommends the Commission find Cow Town Nutrition committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$950 for four (4) violations of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that Cow Town Nutrition be required to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance. A schedule of the dates and locations for the safety seminar can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Cow Town Nutrition submit to one follow-up safety compliance review within the next eighteen (18) months. Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over Cow Town Nutrition because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.

13. The Commission finds Cow Town Nutrition committed four (4) violations of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

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

A. Cow Town Nutrition LLC, of Abilene, Kansas is hereby assessed a \$950 civil penalty for four (4) violations of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Cow Town Nutrition is hereby ordered to attend a Commission-sponsored safety seminar within the next ninety (90) days and is to provide Staff with written proof of attendance. Further, Cow Town Nutrition is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.

C. Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issues by submitting a written request, setting forth the specific grounds upon which relief is sought, 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 Order. If service is by certified mail, service is complete upon the date delivered shown on the Domestic Return Receipt. Hearings will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Cow Town Nutrition's right to a hearing, and this Penalty Order will become a Final Order assessing a \$950 civil penalty against Cow Town Nutrition, and ordering Cow Town Nutrition to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance, and to submit to a safety compliance review within eighteen (18) months from the date of service of this Order.

D. 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. 2015 Supp. 66-1,142b(e) and amendments thereto.

E. If you do not request a hearing, the payment of the civil penalty is due in thirty (30) days from date of service of this Order. Checks and Money Orders shall be payable to the Kansas Corporation Commission. For credit card payments, include type of card (Visa, MasterCard, Discover, or American Express), account number and expiration date. Payments shall be mailed to the Transportation Division of the Kansas Corporation Commission, 1500 S.W.

Arrowhead Road, Topeka, Kansas 66604. *The payment shall include a reference to the docket number of this proceeding.*


F. Failure to pay the \$950 civil penalty within thirty (30) days of the service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Cow Town Nutrition's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of out-of-service and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

G. 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.**

Emler, Chairman; Albrecht, Commissioner; Apple, Commissioner

Dated: NOV 29 2016

  
\_\_\_\_\_  
Amy L. Green  
Secretary to the Commission

AAL


Order Mailed Date

NOV 30 2016



## **ATTACHMENT “A”**

## UNITED STATES DEPARTMENT OF TRANSPORTATION

	US DOT # 2166363	Legal: COW TOWN NUTRITION LLC Operating (DBA):			
MC/MX #:		Federal Tax ID: [REDACTED] (EIN)			
Review Type: Compliance Review (CR)					
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: Nick Weibert					
Phone numbers: (1) [REDACTED]		Fax			
E-Mail Address: [REDACTED]					
Company Mailing Address:					
746 2500 AVE ABILENE, KS 67410-2344					
Carrier Classification					
Private Property					
Cargo Classification					
Grain, Feed, Hay					
Equipment					
	Owned	Term Leased	Trip Leased		
Truck	1	0	0	Trailer	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:		0	CDL Drivers: 1		





**COW TOWN NUTRITION LLC**  
U.S. DOT #: 2166363

Review Date:  
11/16/2016

**Part A**

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:

Address not available

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

**Person(s) Interviewed**

**Name:** Nick Weibert

**Title:** Owner

**Name:**

**Title:**





COW TOWN NUTRITION LLC

U.S. DOT #: 2166363

Review Date:

11/16/2016

## Part B Violations

1 FEDERAL	Primary: 382.305	Discovered 1	Checked 1	Drivers/Vehicles In Violation 0	Checked 0
<b>Description</b> Failing to implement a random controlled substance and/or an alcohol testing program. <b>Example</b> Cow Town Nutrition LLC failed to implement a drug and alcohol testing program. Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 KS. REG. [REDACTED] GVWR 10,000 LBS. PULLING A 2003 TRAILMAN TRAILER VIN# [REDACTED] 82459 No Registration GVWR - 25000 lbs.					
2 STATE	Primary: 391.25(a)  CFR Equivalent: 391.25(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to make an inquiry into the driving record of each driver to the appropriate State agencies in which the driver held a commercial motor vehicle operator's license at least once every 12 months. <b>Example</b> Cow Town Nutrition LLC failed to make an inquiry into a driving record at least once every 12 months of their CDL driver. Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 Ks. Registration [REDACTED] GVWR 10000 lbs. Pulling a 2003 Trailman Trailer Vin # [REDACTED] 82459 No Registration GVWR - 25000 lbs					
3 STATE	Primary: 391.51(b)(5)  CFR Equivalent: 391.51(b)(5)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). <b>Example</b> Cow Town Nutrition Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2). Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 KS. REG. [REDACTED] GVWR 10,000 LBS. PULLING A 2003 TRAILMAN TRAILER VIN# [REDACTED] 82459 No Registration GVWR - 25000 lbs.					
4 STATE	Primary: 391.51(b)(6)  CFR Equivalent: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. <b>Example</b> Cow Town Nutrition Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27. Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 KS. REG. [REDACTED] GVWR 10,000 LBS. PULLING A 2003 TRAILMAN TRAILER VIN# [REDACTED] 82459 No Registration GVWR - 25000 lbs.					





**COW TOWN NUTRITION LLC**  
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11/16/2016

### Part B Violations

<b>5</b> STATE	Primary: 395.8(a) CFR Equivalent: 395.8(a)	Discovered 8	Checked 8	Drivers/Vehicles In Violation 1	Checked 1
<b>Description</b> Failing to require driver to make a record of duty status. <b>Example</b> Driver [REDACTED] failed to keep a record of duty status. Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 Ks. Registration [REDACTED] GVWR 10000 lbs. Pulling a 2003 Trailman Trailer Vin # [REDACTED] 82459 No Registration GVWR - 25000 lbs					
<b>6</b> STATE	Primary: 396.17(a) CFR Equivalent: 396.17(a)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
<b>Description</b> Using a commercial motor vehicle not periodically inspected. <b>Example</b> Cow Town Nutrition LLC. operated a CMV not periodically inspected. Trip Date 10-14-2016 2015 Chev truck Vin # [REDACTED] 619604 Ks. Registration [REDACTED] GVWR 10000 lbs. Pulling a 2003 Trailman Trailer Vin # [REDACTED] 82459 No Registration GVWR - 25000 lbs					
<b>Safety Fitness Rating Information:</b> Total Miles Operated 5,000 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.**





**COW TOWN NUTRITION LLC**  
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11/16/2016

## Part B Requirements and/or Recommendations

1. Copies of the regulations, forms, interpretations, and manuals are available from a variety of sources. Check the FMCSA web site 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)
2. A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).
3. Ensure that all vehicles are properly marked with your name or trade name and U.S. DOT number. If your vehicles are also periodically operating for other carriers, they must be marked with that carrier's name and U.S. DOT#.
4. Conduct periodic internal reviews of your driver qualification, hours of service control, maintenance, accident analysis/reporting, training, and other safety systems to ensure continued compliance with the FMCSR.
5. Obtain a copy of each driver's driving record and review it annually.
6. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
7. Ensure that all drivers are fully and properly qualified before operating in Intra state commerce. Maintain a complete file as required for each driver, documenting the qualification process.
8. **CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Roles and Responsibilities**

**DESCRIPTION OF PROCESS BREAKDOWN:** Carrier failed to implement a controlled substance and/or alcohol testing program. Seek out Third Party Administrators that operate as a controlled substance and alcohol testing consortium and make sure that all CDL required drivers have pre-employment test completed with results known prior to operation of a CDL required CMV and make sure that the consortium enrolls those drivers in a random testing program with other CDL drivers in a testing pool. Owner operators are also required to have a program and be tested.

### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Roles and Responsibilities.

- 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.
- Ensure that managers are responsible for telling employees of a failed test and its implications.
- 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.
- 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.
- Designate a manager to collect and evaluate all controlled-substance and alcohol-related customer complaints and their safety implications.

**Seek Out Resources:**

- You are encouraged to review your company's record at the following web site: <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.

9. **DRIVER FITNESS BASIC PROCESS BREAKDOWN: Qualification and Hiring**

**DESCRIPTION OF PROCESS BREAKDOWN:** Failing to investigate driver's background within 30 days of





**COW TOWN NUTRITION LLC**

U.S. DOT #: 2166363

Review Date:

11/16/2016

## Part B Requirements and/or Recommendations

employment. Failing to maintain a note relating to the annual review of the driver's driving record by 391.25 (c)(2). Failing to maintain a list of certificates relating to violations of motor vehicle laws and ordinances required by 391.27.

### BASIC SPECIFIC RECOMMENDED REMEDIES

**Implement Safety Improvement Practices:** The following are recommended practices related to Qualification and Hiring.

- Ensure that Motor Vehicle Records (MVRs) from States issuing Commercial Driver's Licenses (CDLs) are reviewed for driver-fitness-related violations of all prospective drivers for the last three years.
- Ensure that drivers are qualified by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding driver fitness, such as those pertaining to previous violations, Commercial Driver's License (CDL), medical qualifications, operational qualifications from training, and relevant experience.
- Review and evaluate gaps in employment, frequent job changes, incomplete applications, within-company applications and reassignments, operational limitations such as those pertaining to long-combination vehicles (LCVs) and HAZMAT, physical impairments, and controlled-substance and alcohol involvement.
- Require that drivers fill out the long form for the medical card and be examined by the carrier's preferred doctor to ensure that their medical qualifications are accurate.
- Ensure that the employment application captures all information required by the Federal Motor Carrier Safety Regulations (FMCSRs), such as whether the driver can handle the physical requirements of the job.
- Enhance the recruitment process to identify and attract qualified applicants for the positions of safety director, dispatcher, and driver by using outside resources such as industry affiliations, recruiters, and consultants for employee searches and referrals.

### 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.

10. Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.
11. Ensure that all documents supporting records of duty status (such as toll, fuel, repair and other on-the-road expense receipts, as well as invoices, bill of lading, dispatch records, etc.) are kept on file for at least 6 months.
12. Obtain from any driver used for the first time (or intermittently) a signed statement showing the total time on-duty during the preceding seven (7) days and the time at which the driver was last relieved from duty.
13. If you want some drivers to use the 100 air-mile exemption, make sure that the drivers meet all terms of the exemption, including being released from duty no more than 12 hours from when they report for duty. Logs must be prepared if a driver does not meet the 12 hour exemption.
14. **DESCRIPTION OF PROCESS BREAKDOWN:** Carrier failed to require drivers to make a record of duty status. Ensure that all commercial motor vehicle operators complete accurate records of duty status. Based on the scope and nature of your business, you have the ability to utilize the Short Haul Provision. This log book exemption requires you to follow several guidelines in order to qualify. Record driver time in, time out, and the total hours worked for that day. Do not allow your drivers to exceed 100 air miles from their work reporting location. They must return to the same work reporting location they left from earlier that day within 12 hours. Lastly, they must have 10 hours off duty separating each work day. Utilize the time sheets I've provided to you. If you have questions or needs, please don't hesitate to contact me.

### BASIC SPECIFIC RECOMMENDED REMEDIES





## Part B Requirements and/or Recommendations

Ensure that all commercial motor vehicle operators complete accurate records of duty status. Based on the scope and nature of your business, you have the ability to utilize the Short Haul Provision. This log book exemption requires you to follow several guidelines in order to qualify. Record driver time in, time out, and the total hours worked for that day. Do not allow your drivers to exceed 100 air miles from their work reporting location. They must return to the same work reporting location they left from earlier that day within 12 hours. Lastly, they must have 10 hours off duty separating each work day. Utilize the time sheets I've provided to you. If you have questions or needs, please don't hesitate to contact me.

Implement Safety Improvement Practices: The following are recommended practices related to Roles and Responsibilities.

- Define and document roles and responsibilities of managers and supervisors for monitoring compliance with Hours-of-Service (HOS) policies.
- Ensure that managers are responsible for reviewing Records of Duty Status (RODS) for accuracy and for disciplining those who falsify their logs.
- Assign responsibility for making sure that all Records of Duty Status (RODS) are collected and stored for six months.
- Prior to accepting shipments, ensure that dispatchers are responsible for mapping out routes, asking drivers how many hours they have driven recently, and verifying that the route can be completed without breaking Hours-of-Service (HOS) regulations.
- Ensure that drivers are responsible for informing the carrier when they are sick, keeping accurate Records of Duty Status (RODS), and planning their route so that it can be completed efficiently within Hours-of-Service (HOS) rules.
- Define and document roles and responsibilities of drivers and dispatchers as they pertain to Hours-of-Service (HOS) policies and procedures.
- Ensure that managers are responsible for reviewing Records of Duty Status (RODS) for accuracy and for disciplining those who falsify their logs.
- Assign responsibility for making sure that all Records of Duty Status (RODS) are collected and stored for six months.
- Prior to accepting shipments, ensure that dispatchers are responsible for mapping out routes, asking drivers how many hours they have driven recently, and verifying that the route can be completed without breaking Hours-of-Service (HOS) regulations.
- Ensure that drivers are responsible for informing the carrier when they are sick, keeping accurate Records of Duty Status (RODS), and planning their route so that it can be completed efficiently within Hours-of-Service (HOS) rules.
- Define and document roles and responsibilities of drivers and dispatchers as they pertain to Hours-of-Service (HOS) policies and procedures.
- Designate a manager to collect and evaluate all fatigue-related customer complaints and their safety implications.

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.

15. Establish a systematic maintenance records program for all vehicles. Maintain a complete file for each subject vehicle, recording all repair, maintenance and inspection operations performed. Make sure annual inspections are completed by a qualified mechanic that is familiar with part 396 appendix G every 12 months.

16. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: Carrier failed to conduct annual periodic inspections according to par CFR 396 appendix G as required. Maintain a record of calendar to remind Owner/Operator dates and time annual maintenance and inspections are required.

### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Roles and







## Part B Requirements and/or Recommendations

### Responsibilities.

- Define and document responsibilities of managers, supervisors, drivers, dispatchers, mechanics, and technicians as related to vehicle inspection, repair, and maintenance policies, including the monitoring and documentation of defects and repairs.
- Define and document roles and responsibilities of mechanics and technicians for differentiating between safety-related defects and other defects and for taking unsafe vehicles Out-of-Service (OOS).
- Empower the person who is in charge of fixing trucks with the authority to complete tasks, such as the purchasing of new parts when needed.
- Define and document roles and responsibilities for checking daily completion of Driver Vehicle Inspection Records (DVIRs) and certifying repair before the next assignment.
- Define and document dispatcher responsibilities for planning, scheduling, monitoring, and adjusting fleet operations in accordance with repair and maintenance requirements.
- Define driver responsibilities for informing managers, supervisors, and mechanics/technicians of safety-related defects and repair requirements prior to vehicle operation, including those resulting from vehicle Out-of-Service (OOS) orders.

### Seek Out Resources:

- You are encouraged to review your company's record at the following web site: <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.

17. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.

18. 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 web site 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





COW TOWN NUTRITION LLC  
U.S. DOT #: 2166363

Review Date  
10/20/2016

### Part B Requirements and/or Recommendations

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 web site for more information:  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>

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

19. 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 the Kansas Motor Carrier Safety Statutes and Regulations could result in suspension of Cow Town Nutrition Inc. operating authority and/or the impoundment of Cow Town Nutrition Inc. vehicles

Nick Weibert, Owner  
Date

20. Stay in contact with your KCC Investigator for any questions or issues with continued safety compliance.  
SI Gregory Askren  
785.483.0212  
[g.askren@kcc.ks.gov](mailto:g.askren@kcc.ks.gov)



## **ATTACHMENT “B”**

Cow Town Nutrition LLC

Abilene, KS 67410

# Invoice

Date	Invoice #
10/14/2016	3679

Bill To

Abilene, KS 67410

Terms

Net 15

Due Date

Rep

10/29/2016

NMW

Quantity	Item Code	Description	U/M	Price per ...	Original Ct...	Left on Curren...	Amount
158.00	54783BHB24	Rough-N-Ready 14 BT 50# Bag		9.03		0	1,426.74

Your business is very much appreciated.

**Total**

\$1,426.74

**Customer Total Balance**

\$1,742.34

**CERTIFICATE OF SERVICE**

17-TRAM-217-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 29 2016** \_\_\_\_\_.

NICK WEIBERT, MANAGING MEMBER  
COW TOWN NUTRITION LLC  
746 2500 AVE  
ABILENE, KS 67410-2344  
nweibert@hotmail.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 30 2016