# 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	)	
Northern Kansas Transport, Inc.,	)	
d/b/a NKT of Lenexa, Kansas,	)	
Regarding the Violation of the Motor	)	
Carrier Safety Statutes, Rules and	)	Docket No. 16-TRAM-383-PEN
Regulations and the Commission's	)	
Authority to Impose Penalties, Sanctions	)	
and/or the Revocation of Motor Carrier	)	
Authority.		

# ORDER SUSPENDING INTRASTATE MOTOR CARRIER OPERATIONS

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

#### I. JURISDICTION AND BACKGROUND

- 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. Pursuant to K.S.A. 2015 Supp. 66-1,129(a)(7), the Commission has adopted motor carrier transportation regulations (K.A.R. 82-4-1 *et seq.*) consistent with the federal motor carrier safety assistance program and other federal requirements concerning transportation of hazardous waste.

#### II. FINDINGS OF FACTS

- 4. Northern Kansas Transport, Inc., d/b/a NKT of Lenexa, Kansas (Respondent) is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108, that operates commercial motor vehicle(s) in intrastate commerce.
  - 5. Respondent operates under USDOT Number 570740.
- 6. On March 3, 2016, Respondent was issued a penalty assessment for violations of the Kansas Motor Carrier Safety Statutes, Rules and Regulations discovered during a compliance review conducted on February 22, 2016, by Kansas Corporation Commission Special Investigators Verna Jackson and B.K. Smith. The Commission's Penalty Order is incorporated herein by reference and made a part of this Order.
- 7. The Penalty Order was mailed to Respondent via certified mail, return receipt requested, on March 3, 2016. A Proof of Service of the Penalty Order was filed on March 16, 2016.
- 8. As of July 15, 2016, Commission records indicate Respondent has not complied with requirements of the Penalty Order in that Respondent had thirty (30) days from service to pay the fine amount of \$5,700, and Transportation Division records indicate the fine is unpaid. Further, Respondent was mailed a letter dated April 5, 2016,

to the carrier's mailing address, notifying it of its unpaid fine and lack of compliance with the above-referenced Penalty Order.

#### III. CONCLUSIONS OF LAW

- 9. The Commission finds it has jurisdiction over Respondent as the Respondent is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.
- 10. The Commission finds Respondent received sufficient notice of the Commission's Penalty Order and the requirement to pay the fine within 30 days of the Order.
  - 11. The Commission finds Respondent failed to act upon this notice.
- 12. The Commission finds Respondent's failure to comply with the requirements of the Penalty Order is intentional and therefore this Commission orders the Respondent to suspend all intrastate motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as the carrier takes the necessary steps to become compliant.

#### THE COMMISSION THEREFORE ORDERS THAT:

A. Northern Kansas Transport, Inc., d/b/a NKT of Lenexa, Kansas is to be immediately suspended from all intrastate commercial motor carrier operations other than such motor carrier operations excepted from the Commission's regulation under K.S.A. 2015 Supp. 66-1,129, until such time as Respondent pays the penalty amount of \$5,700 and brings its motor carrier operation into compliance with motor carrier safety statutes, rules and regulations. This Suspension of Intrastate Motor Carrier Operations Order may also attach and apply to the operations of successor entities, including any motor carrier

entity or entities established or used to avoid the consequences of any Order to cease operations or suspending operating authority.

- B. 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. Service of this order will be by certified mail, return receipt requested, and service is complete when Respondent signs the Domestic Return Receipt. Pursuant to K.S.A. 66-1,129a, hearings will be held within ten (10) days upon written request. Failure to timely request a hearing will result in a waiver of Respondent's right to a hearing, and this Order will become a Final Order against Respondent, suspending Respondent's motor carrier operations, ordering Respondent to attend a Commission-sponsored safety seminar within the next ninety (90) days and provide Staff with written proof of attendance.
- C. 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.

D. Failure to comply with the provisions of this Order may result in further sanctions to include, but not limited to, the assessment of civil penalties and/or the impoundment of commercial motor vehicles found operating in violation of this Order and any other remedies available to the Commission by law, without further notice.

E. 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, Chair; Albrecht, Commissioner; Apple, Commissioner

	AUG	0	2	2016	
Dated:					

Amy L. Green

Secretary to the Commission

**AAL** 

Order Mailed Date
AUG 0 3 2016

1500 SW Arrowhead Road Topeka, KS 66604-4027



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

Sam Brownback, Governor

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

# NOTICE OF PENALTY ASSESSMENT 16-TRAM-383-PEN

March 3, 2016

Jim Britz, President Northern Kansas Transport Inc., d/b/a NKT 9775 Lenexa Drive Lenexa, Kansas 66215

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 February 22, 2016, by Kansas Corporation Commission Special Investigator Verna Jackson and BK Smith. 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 \$5,700 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 <a href="http://www.kcc.state.ks.us/trans/safety\_meetings.htm">http://www.kcc.state.ks.us/trans/safety\_meetings.htm</a>.

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.

Ahsan A. Lafit Litigation Counsel (785) 271 2118

# 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 Northern	)	
Kansas Transport Inc., d/b/a NKT, of Lenexa,	)	
Kansas, Regarding the Violation of the Motor	)	
Carrier Safety Statutes, Rules and Regulations	)	Docket No. 16-TRAM-383-PEN
and the Commission's Authority to Impose	)	
Penalties, Sanctions and/or the Revocation of	)	
Motor Carrier Authority.	)	

# PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). 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. Northern Kansas Transport Inc., d/b/a NKT (NKT) operates under USDOT number 570740.
  - 5. NKT operates as a for hire carrier in interstate commerce.
- 6. NKT is a common motor carrier which primarily hauls general freight, fresh produce, meat, US mail, refrigerated foods, beverages and paper products.

#### III. STATEMENT OF FACTS

- 7. Pursuant to the jurisdiction and authority cited above, on February 22, 2016, Commission Staff (Staff) Special Investigator Verna Jackson and BK Smith conducted a compliance review of the operations of NKT. 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, Ms. Jackson and Mr. Smith identified six (6) violations of the Motor Carrier Safety Regulations.
  - a. On November 1, 2015, NKT required or permitted its driver, James Britz, to operate a commercial motor vehicle, a 2001 Freightliner, VIN ending in 55576, pulling a 2006 Great Dane leased trailer, VIN ending in 709107, in interstate commerce from Kansas City, Kansas the Pharr, Texas. This trip is evidenced by Driver's Daily Log, dated November 1, 2015, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by

- reference. At the time of this transportation, NKT had not implemented an alcohol and/or controlled substance testing program for its CDL driver. NKT's failure to establish an alcohol and/or controlled substances program for its 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 \$500.
- b. During the transportation described in paragraph a., above, NKT made or caused to be made fraudulent or intentionally false statements, fraudulent or intentionally false entries on records, and or reproducing records for fraudulent purposes. NKT obtained an updated MCS150 on August 24, 2015, when other USDOT numbers were under an OOS order. NKT is in violation of making, or causing to make fraudulent or intentionally false statements, fraudulent or intentionally false entries on record, and/or reproducing records for fraudulent purposed in violation of 49 C.F.R. 390.35, as adopted by K.A.R. 82-4-3, and as implemented by K.S.A. 2014 Supp. 66-1,129. Staff recommends a fine of \$2,000.
- c. On or around the transportation described in paragraph a., above, NKT produced false reports of records of duty status. On November 3, 2015, driver shows off-duty, while having fueled in Mission, TX at 15:53. On November 14, 2015, driver shows off duty, while having fueled in Kansas City, MO at 9:02 a.m. On November 17, 2015, driver fueled at 16:56 in Laredo, TX, and the record of duty status shows one (1) hour away from

Laredo, Texas. On November 18, 2015, driver fueled at 21:12 at Refugio, TX and the record of duty status shows one (1) hour away from Refugio, TX. On November 26, 2015, driver shows off-duty, but fueled in Platte City, MO at 23:03. *See* Driver's Daily Logs, attached hereto as Attachment "C" and hereby incorporated by reference. NKT's falsifying records of duty status is a violation of 49 C.F.R. 395.8(e), as adopted by K.A.R. 82-4-3a, and as authorized by K.S.A. 2015 Supp. 66-1,129. Staff recommends a fine of \$2,000.

- d. During the transportation described in paragraph a., above, NKT 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. NKT'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), 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.
- e. During the transportation described in paragraph a., above, NKT had not had a means of indicating the nature and due date of the various inspection and maintenance operations to be performed. NKT's failure to maintain the required vehicle inspection records and vehicle maintenance records for 30 days is in violation of 49 C.F.R. 396.3(b), 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 \$750.

f. During the transportation described in paragraph a., above, NKT permitted this transportation without first obtaining and documenting a successful periodic (annual) inspection on the commercial motor vehicle during the preceding 12-month period. This violation is evidenced by the absence of a periodic (annual) inspection report in the maintenance file of the vehicle at the time of the compliance review. NKT's failure to conduct periodic (annual) inspections on commercial motor vehicles is a violation of 49 C.F.R. 396.17(a), 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 \$350.

#### IV. STAFF'S RECOMMENDATIONS

- 8. Based upon the available facts, Staff recommends the Commission find NKT committed six (6) 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 \$5,700 for six (6) violations of the Motor Carrier Safety Statutes, Rules and Regulations.
- 10. Staff further recommends that NKT 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.

11. Finally, Staff recommends that NKT 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 NKT because it is a motor carrier as defined in K.S.A. 2015 Supp. 66-1,108.
- 13. The Commission finds NKT committed six (6) 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. Northern Kansas Transport Inc., d/b/a NKT, of Lenexa, Kansas is hereby assessed a \$5,700 civil penalty for six (6) 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. NKT 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, NKT is ordered to submit to one follow-up safety compliance review within the next eighteen (18) months.
- C. <u>Pursuant to K.S.A. 2015 Supp. 77-537 and K.S.A. 77-542, any party may</u> 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 NKT's right to a hearing, and this Penalty Order will become a Final Order assessing a \$5,700 civil penalty against NKT, and ordering NKT 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 mumber of this proceeding.
- F. Failure to pay the \$5,700 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 NKT'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:	MAR	0	3	2016		

Amy L. Green

Secretary to the Commission

AAL

Order Mailed Date
MAR 0 4 2016



20	US DOT # 570740	Legal: NOF	THERN KANSAS T	RANSPOR	RT INC		
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>= 1	00 Miles:	1			CDL Drivers: 1		



U.S. DOT #: 570740

Review Date: 02/22/2016

#### 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 Topeka, Kansas 66604 Telephone 785-271-3104

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Jim Britz

Title: Owner/President

Name:



U.S. DOT #: 570740

Review Date: 02/22/2016

#### Part B Violations

1 FEDERAL ACUTE	Primary: 382.115(a)	Discovered	Checked 1	Drivers/Vehicles In Violation Checked
Description Failing to imp motor vehicle	element an alcohol and/or controlled subs	tances testing program on the dat	te the employ	er begins commercial
Example				

2	Primary: 390.35			Drivers/V	ehicles
FEDERAL	•	Discovered	Checked	In Violation	Checked
ACUTE		1	1		

#### Description

Making, or causing to make fraudulent or intentionally false statements, fraudulent or intentionally false entries on records, and/or reproducing records for fraudulent purposes.

# Example

November 1, 2015

Carrier obtained and updated MCS150 on August 24, 2015 when other USDOT numbers were under an OOS order.

3	Primary: 395.8(e)			Drivers/V	ehicles
FEDERAL		Discovered	Checked	In Violation	Checked
CRITICAL		6	30	1	1

#### Description

False reports of records of duty status.

### Example

November 1, 2015

Driver indicated off duty in Emporia, KS while fueling at 1:21 AM in Lebo, KS.

11/03/2015 - Driver shows off-duty, fueled in Mission, TX at 16:53.

Representative for Express Labs, on 12/23/2015, 3:13 PM.

11/14/2015 - Driver shows off duty, fueled in Kansas City MO at 9:02 AM.

11/17/2015 - Fueled at 16:56 in Laredo, TX, driver shows 1 hour away from Laredo TX.

11/18/2015 - Fueled at 21:12 at Refugio, TX, driver shows 1 hour away from Refugio, TX

11/26/2015 - Driver shows off-duty, fueled in Platte City, MO at 23:03.

4	Primary: 391.21(a)			Drivers/V	ehicles
FEDERAL	,	Discovered	Checked	In Violation	Checked
		1	1	1	. 1

#### Description

Using a driver who has not completed and furnished an employment application.

#### Example

November 1, 2015

Truck Tractor / Trailer Owner-Operator

Driver did not supply 10 years of employment history information



U.S. DOT #: 570740

Review Date: 02/22/2016

#### Part B Violations

5 FEDERAL	Primary: 391.51(b)(4)	Discovered 1	Checked 1	Drivers/Vehicles In Violation Checked 1 1		
Description Failing to main Example	tain the responses of each State agency to the annual	driver record inqui	y required by	391.25(a).		
November 1, 2 NKT failed to n	015 naintain the responses of each State agency to the an	nual MVR in the DC	) file.			
6 FEDERAL	Primary: 391.51(b)(5)	Discovered	Checked 1	Drivers/Vehicles In Violation Checked 1 1		
Example November 1, 2	tain a note relating to the annual review of the driver's 015 naintain a note relating to the annual review of the MV	-	equired by 391	.25(c)(2).		
7 FEDERAL	Primary: 391.51(b)(6)	Discovered 1	Checked 1	Drivers/Vehicles in Violation Checked		
Example November 1, 2	tain a list or certificate relating to violations of motor violations of motor violations of motor violations of motor violation of the violat	-		red by 391.27.		
8 FEDERAL	Primary: 395.8(f)	Discovered 17	Checked 30	Drivers/Vehicles In Violation Checked		
Description Failing to require driver to prepare record of duty status in form and manner prescribed.  Example  November 1, 2015  Driver failed to indicate the shipper number, BOL number, or commodity.						
9 FEDERAL	Primary: 396.3(b)(2)	Discovered 2	Checked 2	Drivers/Vehicles In Violation Checked 2 2		
Description Failing to have performed. Example November 1, 2	a means of indicating the nature and due date of the	various inspection	and maintena	nce operations to be		



U.S. DOT #: 570740

Review Date: 02/22/2016

# Part B Violations

10 FEDERAL	Primary: 396.17(a)			Discovered 1	Checked 2			ehicles Checked 2
Example	ercial motor vehicle not p		not perio	dically inspecte	d, Trailer U62	721 anr	nual insp	pection
Safety Fitness F Total Mile Recordab	Rating Information: es Operated ble Accidents ble Accidents/Million Mi	120,000 0 les 0.00	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 :		Rating	Factors		Acute	Critical	
			Fac	tor 1:	С	1	0	
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This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

However, If this rating improves a previous Unsatisfactory rating, it will become effective on the date of the official notice from the FMCSA headquarters.

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17.

If this was a focused investigation, which will be noted in the Review Type on the first page of this report (Parl A), some factors shown above may be marked "SATISFACTORY" even if they were not reviewed. A focused investigation will not result in a SATISFACTORY safety rating because all standards and factors specified in 40 CFR 383.5 and 385.7 were not examined in full, even though it may appear that they were under the rating factors in Part B of this document. It may, however, result in a less than SATISFACTORY rating if sufficient violations are discovered in the parts and factors examined to result in a CONDITIONAL or UNSATISFACTORY rating, or a non-ratable review.

If you receive a conditional or unsatisfactory rating, you may request an administrative review under 49 CFR 385.15 or a safety rating upgrade based on corrective action under 49 CFR 385.17. However, a successful request may only result in a non-ratable status, upgrade to a conditional safety rating, or reinstatement of your most recent safety rating. You will not receive a new satisfactory safety rating as a result of your request(s) under 49 CFR 385.15 and/or 49 CFR 385.17.





U.S. DOT #: 570740

Review Date: 02/22/2016

# Part B Requirements and/or Recommendations

FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was
implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative.
A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be
available to the public in July 2012. There will be additional opportunity for public comment on the changes after the
preview period ends in July 2012.

The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents.

Motor carrier's currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site.

The data preview may be found at http://csa.fmcsa.dot.gov/. During the data preview period, the Agency requests comments on the impacts of the changes.

2. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Norther Kansas Transport Inc doa NKT failed to implement an alcohol and/or controlled substances testing program prior to operation. Requirements are for the motor carrier to verify drivers are alcohol and substance free prior to allowing the driver to operate a CDL CMV.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
- Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
- Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations. Procedures should be tailored to company operations and should provide specific checks and guidelines for interacting with a consortium. If applicable.
- Develop a policy to 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.

#### 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.
- 3. The starting date for alcohol and/or controlled substance testing programs must be implemented no later than the date the employer begins commercial motor vehicle operations per 49 CFR 382.115(a).
- 4. PER 390.35 Certificates, reports, and records: falsification, reproduction, or alteration: No motor carrier, its agents, officers, representatives, or employees shall make or cause to make (a) A fraudulent or intentionally false statement on any application, certificate, report, or record required by Part 325 of Subchapter A or this subchapter; (b) A





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fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or Part 325 Subchapter A; or (c) A reproduction, for fraudulent purposes, of any application, certificate, report, or record required by this subchapter or Part 325 of Subchapter A.

#### 5. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Roles and Responsibilities

DESCRIPTION OF PROCESS BREAKDOWN: Northern Kansas Transport Inc dba NKT used a driver who did not complete an employment application with all the employment history required, failed to maintain the responses of the driver's driving record in the DQ file, failed to review the driver's driving record, and failed to maintain a list or certificate relating to violations of the driver's driving record. Even owner operators are required to provide the previous 10 years experience on the driver's application, provide a copy of the driver's driving record, and process the annual review of the driver's driving record.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.
- Define and document roles and responsibilities of managers and supervisors in providing training and maintaining qualifications for all employees according to driver-fitness regulations and company policies and procedures.
- Ensure that operations managers and dispatchers are responsible for having the proper amount of fit drivers by considering short-term changes, for example, with regard to vacations, variations in sales, and additional driver duties, and long-term changes, for example, with regard to permanent reassignment and termination of employees.
- Ensure that dispatchers and operation managers are responsible for ascertaining that drivers are qualified before authorizing runs.
- Define and document roles and responsibilities of drivers, dispatchers, and other personnel according to driver fitness regulations and 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.
- 6. As required by 391.25(a), motor carriers shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

#### 7. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN: Northern Kansas Transport Inc dba NKT permitted the recording of false reports and failed to require driver to prepare the record of duty status in the form and manner required. Falsifying records of duty status is a critical violation. The falsification indicates the driver is operating outside of the safety and security of a non-fatigued driver. Accidents and misjudgements occur when the driver is fatigued.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
- Promptly review all Records of Duty Status (RODS) for Hours-of-Service (HOS) violations and falsification. Look for discrepancies by comparing driver logs with their "check-in" calls and other supporting documents.

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Document all findings of fatigue-related noncompliance with regulations and/or company policies.

Systematically check to see if drivers and dispatchers are regularly communicating about Hours-of-Service

(HOS) availability and driver-fatigue level.

- Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
- Regularly evaluate the company's fatigue-related inspection results via the Federal Motor Carrier Safety
  Administration's (FMCSA) website at http://ai.fmcsa.dot.gov/SMS. Assess violations for process breakdowns and
  how to remedy them.
- Implement a system for keeping accurate records of employees' Hours-of-Service (HOS) training needs and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Consider using Electronic On-board Recorders (EOBRs) to monitor and track Hours-of-Service (HOS) violations.

#### 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.
- 8. Require driver to prepare record of duty status in the form and manner prescribed. Required fields are: Date, total miles, truck/trailer number, carrier name, signature, 24 hour time, main office address, remarks, co-driver information if applicable, total hours, shipping document #/commodity.
- 9. VEHICLE MAINTENANCE BASIC INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN: Northern Kansas Transport Inc dba NKT used a commercial motor vehicle before obtaining an annual inspection. NKT also failed to have a maintenance policy indicating the nature and due date of the various inspection and maintenance operations to be performed. Preventative maintenance is valuable tool and not maintaining a means of indicating the nature and due date of maintenance operations, the carrier cannot validate the process the carrier takes in performing maintenance. Annual inspections performed by certified mechanics is an avenue required, but also assists in validating all commercial motor vehicles are safe to operate.

#### BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations, including a schedule for periodic maintenance, inspection, and recordkeeping. This system should be attuned to manufacturer recommendations, the carrier's own experience, and regulatory requirements.
- Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are repaired and certified before the vehicle is operated.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.

#### 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.
- Ensure that you have in writing a means of indicating the nature and due date of various inspection and maintenance operations to be performed.

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11. Ensure that all commercial motor vehicles, which would include trailers as well as power units, have a current Annual Inspection as required by 396.17. A motor carrier shall not use a commercial motor vehicle unless each component has passed an inspection at least once during the preceding 12 months. The inspection must identify the vehicle, the date of the inspection, and the name and address of the motor carrier or entity where the report is maintained.

#### 12. 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.
- Apply Adequate Resources: Apply adequate resources to properly implement safety management practices. Consider reallocating responsibilities, additional staffing, contracting, or investing in technology to aid in this responsibility.
- 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.
- 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 resulting 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 FMCSA 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 resulting in a proposed conditional or unsatisfactory rating:

385.15

If you believe the proposed rating is in error and there are factual and procedural issues in dispute, Part 385.15 (copy provided) outlines procedures for petitioning the Federal Motor Carrier Safety Administration for an administrative review of these findings. Your petition should be addressed to:

Chief Safety Officer
Federal Motor Carrier Safety Administration 1200 New Jersey Avenue SE,
Washington, DC 20590

385.17

In addition, a request for a revised rating based on corrective actions may be made at any time. Parl 385.17 (copy





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provided) outlines the procedures for such a request. The request must be made in writing, must describe the corrective action taken and must include other documentation that may be relied upon as a basis for the requested change. Address your written request to:

Ensure that a CC copy of the letter is mailed to: Division Administrator/Max Stratham Federal Motor Carrier Safety Administration 1303 First American Place, Suite 200 Topeka, KS 66604

Information on your compliance status, roadside inspections, regulatory changes, accident counter measures and hazardous material counter measures is available on the Internet at the Federal Motor Carrier Safety Administration's web site at http://www.fmcsa.dot.gov/ and http://www.safer.fmcsa.dot.gov/.

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

The Kansas Corporation Commission requires you to prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 15 days, and any additional evidence necessary to prove the corrective action has been taken to:

Kansas Corporation Commission Atln: Gary Davenport 1500 SW Arrowhead Road Topeka, KS 66604

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# **CERTIFICATE OF SERVICE**

	16-1 RAM-383-PEN	
I, the undersigned, certify that the tru	ue copy of the attached Order has be	een served to the following parties by means of
first class mail/hand delivered on	MAR 0 3 2016	

AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 Fax: 785-271-3354 a.latif@kcc.ks.gov JIM BRITZ, PRESIDENT
NORTHERN KANSAS TRANSPORT INC.
D/B/A NKT
9775 LENEXA DRIVE
LENEXA, KS 66215
Fax: 785-670-8400
nktinc@outlook.com

/S/ DeeAnn Shupe			
DeeAnn Shupe	-		

Order Mailed Date
MAR 0 4 2016

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	16-TRAM-383-PEN	
I, the undersigned, certify that the t	rue copy of the attached Order h	as been served to the following parties by means of
first class mail/hand delivered on _	AUG 0 2 2016	

AHSAN LATIF, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 Fax: 785-271-3354 a.latif@kcc.ks.gov JIM BRITZ, PRESIDENT NORTHERN KANSAS TRANSPORT INC. D/B/A NKT 9775 LENEXA DRIVE LENEXA, KS 66215 Fax: 785-670-8400 nktinc@outlook.com

/S/ DeeAnn Shupe
DeeAnn Shupe

Order Mailed Date
AUG 0 3 2016