

UNITED STATES DEPARTMENT OF TRANSPORTATION


US DOT #
2100311

Legal: EDWIN AYACHE
Operating (DBA):THREE ANGELS FARMS
MC/MX #:**Federal Tax ID:** 451-29-5001 (SSN)**Review Type:** Compliance Review (CR)**Scope:** Principal Office**Location of Review/Audit:** Company facility in the U. S.**Territory:****Operation Types** Interstate Intrastate
Carrier: Non-HM N/A
Shipper: N/A N/A
Cargo Tank: N/A
Business: Corporation**Gross Revenue:** \$120,000.00**for year ending:** 12/31/2011**Company Physical Address:**
151 MILL RD
LEBANON, TN 37090
Contact Name:**Phone numbers:** (1) 161- 571-5120

(2)

Fax**E-Mail Address:****Company Mailing Address:**
151 MILL RD
LEBANON, TN 37090
Carrier Classification

Private Property

Cargo Classification

Livestock

Does carrier transport placardable quantities of HM? No**Is an HM Permit required?** N/A**Driver Information**

	Inter	Intra
< 100 Miles:	0	0
>= 100 Miles:	3	0

Average trip leased drivers/month: 0**Total Drivers:** 3**CDL Drivers:** 3**Equipment**

	Owned	Term Leased	Trip Leased
Truck Tractor	3	0	0

	Owned	Term Leased	Trip Leased
Trailer	3	0	0

Truck Tractor

3

0

0

Trailer

3

0

0

Power units used in the U.S.:3

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





THREE ANGELS FARMS (EDWIN AYACHE dba)

U.S. DOT #: 2100311

Review Date:

02/23/2012

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:

640 Grassmere Park, Suite 111

Nashville, TN 37211

Phone: (615)781-5781 Fax:(615)781-5780

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Dorian Ayache

Title: Presidnt

Name: Pat Bullock

Title: Secretary





THREE ANGELS FARMS (EDWIN AYACHE dba)
U.S. DOT #: 2100311

Review Date:
02/23/2012

Part B Violations

1 FEDERAL	Primary: 382.301(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Using a driver before the motor carrier has received a negative pre-employment controlled substance test result. Example Robert McDonald, Trip date January 18, 2012 TN – TX, Three Angles Farm allowed Robert McDonald to operate a commercial motor vehicle under their control prior to pre-employment drug testing this driver. Driver was hired on January 10, 2012.					
2 FEDERAL	Primary: 390.15(b)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to keep an accident register in the form and manner prescribed. Example Ronald Vance, Accident date October 10, 2011, Ronald Vance was involved in a DOT reportable accident and Three Angles Farm could not produce an accident register as required.					
3 FEDERAL	Primary: 391.51(a)	Discovered 1	Checked 3	Drivers/Vehicles In Violation 1	Checked 3
Description Failing to maintain driver qualification file on each driver employed. Example Ronald Vance, Accident date October 10, 2011, Ronald Vance was hired on January 10, 2011 and Three Angles Farm could not produce a drivers qualification file for this driver as of the date of this review.					
4 FEDERAL	Primary: 395.3(a)(1)	Discovered 1	Checked 90	Drivers/Vehicles In Violation 1	Checked 3
Description Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours Example Robert McDonald, Trip date January 27, 2012 TN – TX, Robert McDonald drove for 19 hours without the required break.					
5 FEDERAL	Primary: 395.3(a)(2)	Discovered 2	Checked 90	Drivers/Vehicles In Violation 2	Checked 3
Description Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty. Example Robert McDonald, Trip date January 27, 2012 TN – TX, Robert McDonald drove for 5 hours after having been on duty for 14 hours without the required break.					
6 FEDERAL	Primary: 395.8(f)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
Description Failing to require driver to prepare record of duty status in form and manner prescribed. Example Robert McDonald, Trip date January 19, 2012 TX – AR, Robert McDonald failed to list his bill of lading number or commodity carried					





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Part B Violations

7 FEDERAL	Primary: 396.3(a)(1)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
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Description

Failing to maintain brakes in proper adjustment.

Example

While conducting level 5 inspections of Three Angles Farms tractor and trailers it was noted that there were numerous out of service violation on each tractor. Violations on tractor #88: One steering axle brake out of adjustment and 2 drive axle brakes out of adjustment putting this truck out of service. Violations on tractor #12: Passenger side steering wheel brake was inoperative along with both brakes on the #3, #4 and #5 axles being out of adjustment placing the truck and trailer out of service. The fifth wheel was not locking into place allowing the 5th wheel plate to slide in the brackets and this violation placed the combination out of service. Vehicle #12 also had cracks in the electrical cord allowing the wires to be exposed and this violation placed the combination out of service. Violations on tractor #7: Axle #3 had the right brake out of adjustment and axle # 5 also had the both brakes out of adjustment and axle #4 had both brakes inoperable (the left side brake was so corroded ad the air bladder was exposed.

8 FEDERAL	Primary: 396.3(b)(1)	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
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Description

Failing to keep a maintenance record which identifies the vehicle, including make, serial number, year, and tire size.

Example

Dorian Ayache, Trip date January 10, 2012 TN – TX, Three Angles Farm allowed Robert McDonald to operate vehicle #88 a commercial motor vehicle under their control and Three Angles Farm could not produce a vehicle maintenance record for this vehicle that identifies the vehicle, including make, serial number, year, and tire size.

9 FEDERAL CRITICAL	Primary: 396.11(a)	Discovered 15	Checked 90	Drivers/Vehicles In Violation 3	Checked 3
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Description

Failing to require driver to prepare driver vehicle inspection report.

Example

Dorian Ayache, Trip date January 7, 2012, Dorian Ayache was operated vehicle #7 in interstate commerce and Three Angles Farm did not require this driver to complete or submit a driver's daily vehicle inspection report as required. Dorian Ayache stated that he has not required any of his drivers to complete or submit a drivers daily vehicle inspection reports.

Safety Fitness Rating Information:		OOS Vehicle (CR): 3			
Total Miles Operated 50,000		Number of Vehicle Inspected (CR): 3			
Recordable Accidents 2		OOS Vehicle (MCMIS): 0			
Recordable Accidents/Million Miles 40.00		Number of Vehicles Inspected (MCMIS): 0			

Your proposed safety rating is :

UNSATISFACTORY

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	S	0	0
Factor 3:	S	0	0
Factor 4:	U	0	1
Factor 5:	N	0	0
Factor 6:	U	-	-

Effective date: The unsatisfactory rating will take effect 60 days after the date of a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters office in Washington, D.C.





THREE ANGELS FARMS (EDWIN AYACHE dba)

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Part B Violations

PROHIBITION: Under 49 USC sections 13905(f)(1)(B) and 31144, and 49 CFR section 385.13 a motor carrier that receives a final safety rating of unsatisfactory is prohibited from operating a commercial motor vehicle in interstate and intrastate commerce and, if applicable, shall have its registration revoked unless and until such time the FMCSA determines the motor carrier is fit and the motor carrier has reinstated its registration.

49 U.S.C. 31144 provides that the prohibition takes effect unless the motor carrier, within 60 days of the date of the forthcoming official notice, takes the necessary steps to improve the rating to conditional or satisfactory.

Unless the motor carrier receives an improved rating within 60 days from the date of the forthcoming official notice from Washington, D.C, the motor carrier will be subject to the prohibition in 49 CFR 385.13.

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

Administrative Review: A motor carrier may appeal its proposed safety rating in a petition filed pursuant to 49 CFR section 385.15 if it believes that the rating is in error and there are factual and procedural issues in dispute. Such appeals must be made within 90 days of the date of the proposed safety rating, but should be made within 15 days of the date of the safety rating notice to allow the FMCSA to issue a written decision before the prohibitions in 49 CFR 385.13 take effect. Appeals filed pursuant to section 385.15 should be addressed to: Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590. The motor carrier will receive a written decision on the petition within 45 days from receipt of the petition by the Chief Safety Officer. (See 49 CFR 385.15 for additional details.)

(Note: Neither a petition to contest the rating nor a request for a change in the rating will delay the effective date of the rating, if unchanged.)





Part B Requirements and/or Recommendations

1. Review the circumstances under which a CDL is required. CDL and drug testing rules apply to both interstate and intrastate commerce.
2. 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.
3. Require all drivers to prepare a written inspection report for each day a vehicle is operated. Ensure that each report is signed by the driver, certified, and reviewed if defects are reported.
4. Keep all driver vehicle inspection reports, signed, certified, and reviewed as required on file for at least 90 days.
5. This report contains citations of regulations that are deemed serious in nature and could result in penalties against your company and/or your drivers.
6. A complete Educational and Technical Assistance package entitled "A MOTOR CARRIER'S GUIDE TO IMPROVING HIGHWAY SAFETY" is available free on the FMCSA website to assist you in complying with the safety regulations. It contains many forms and documents useful for improving the safety of your operations. Check: www.fmcsa.dot.gov/factsfiqs/eta/index.html.

7. FATIGUE DRIVING (HOS) BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN

Three Angles Farm has a company policy for drugs and alcohol but it does not mention any other aspect of the carriers operations. It does not outline who should receive the records of duty status (logs) or what must be checked when he logs are received in the office.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Develop a policy and procedure describing how management will monitor and track logs for falsification.
- Establish a policy that prohibits dispatchers from assigning a load to drivers without hours available to complete the load on time.
- Develop a policy stating that drivers should not violate their Hours-of-Service (HOS) Out-of-Service (OOS) order under any circumstances, and immediately contact the carrier when a driver is placed OOS.
- Develop a policy requiring drivers to report their available hours to dispatch during "check-in" calls.
- Develop policies and procedures for ensuring proper retention of Record of Duty Status (RODS) according to regulations.
- Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
- Develop a policy stating that drivers are required to submit all Records of Duty Status (RODS) and supporting documentation, such as expense receipts, within 13 days of the end of the trip. Outline consequences for noncompliance, such as withholding of paychecks until documents have been submitted.
- Establish a policy stating that drivers are required to check with their supervisor, manager, or dispatcher to review their "fit-for-duty" status before starting a job, and that drivers who are ill to the extent that their ability and/or alertness is impaired are prohibited from working on safety-sensitive assignments.
- Develop a written, progressive disciplinary policy comprising warning letters, suspensions, and fines, and ultimately leading to termination, focused on taking corrective action to ensure that drivers comply with fatigued-driving-related regulations and company policies. This policy should also specify consequences for any carrier official who knowingly and willfully allows 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.





Part B Requirements and/or Recommendations

- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

8. VEHICLE MAINTENANCE BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN

Three Angles Farm has a very generic policy concerning drugs and alcohol but does not cover their drivers completing and submitting their driver's daily vehicle inspection reports. It does not outline who should receive the drivers daily vehicle inspection reports (DVIR's) or what must be checked when the DVIR's are received in the office or what action must be taken when violations are found.

BASIC SPECIFIC RECOMMENDED REMEDIES

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

- Check all inspections and relevant records, such as Driver Vehicle Inspection Records (DVIRs), pre-trip and annual inspections, and maintenance and repair records, to ensure that company inspection, repairing, and maintenance policies and procedures are adhered to and properly documented.
- Ensure that Driver Vehicle Inspection Records (DVIRs) are effectively coordinated with maintenance and operations, result in timely corrective measures, and are verified during pre-trip inspections as applicable.
- Require mechanics to note whether parts came from inventory or were ordered, to ensure accuracy of maintenance records.
- Monitor and track roadside inspection results to ensure that vehicle defects are repaired and documented promptly and to prevent Out-of-Service (OOS) vehicles from operating prior to being repaired.
- Monitor manufacturer recalls through www.nhtsa.dot.gov and consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance.
- Implement a system for keeping accurate records of employee inspection, repair, and maintenance training needs, including updates on a carrier's fleet or equipment and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- Regularly evaluate the company's vehicle-maintenance-related inspection results via the Federal Motor Carrier Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
- Maintain inspection, repair, maintenance, vehicle identification, and communication records to help evaluate the performance of all staff (drivers, dispatchers, mechanics, and managers) involved in fleet maintenance and the effectiveness of compliance with vehicle maintenance policies, procedures, and regulations.
- Evaluate personnel who are monitoring vehicle maintenance performance by making sure they are using Driver Vehicle Inspection Records (DVIRs), roadside inspections, and other data; applying performance standards fairly, consistently, and equitably; and documenting evaluations.
- When monitoring and tracking vehicle maintenance issues, always assess whether an issue is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

HAZMAT Carriers:

- Monitor performance and documentation of the appropriate HAZMAT inspections and tests, including hose inspections and emergency remote checks.

Passenger Carriers:

- Monitor manufacturer recalls through www.nhtsa.dot.gov; consult with manufacturer service representatives to keep current with service bulletins for proactive maintenance, especially with regard to preowned buses.
- Monitor and track vehicle-maintenance-related passenger complaints and assess 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.



**Part B Requirements and/or Recommendations**

9. Shipping document number(s), or name of shipper and commodity shall be shown on the driver's record of duty status.
For each change of duty status (e.g., the place of reporting for work, starting to drive, on duty not driving and where released from work), the name of the city, town or village, with State abbreviation, shall be recorded.
10. No motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle:
(1) More than 11 cumulative hours following 10 consecutive hours off duty; or
(2) For any period after the end of the 14th hour after coming on duty following 10 consecutive hours off duty, except when a property-carrying driver complies with the provisions of §395.1(o) or §395.1(e)(2).
11. 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>
- For all Investigations that could result in a Notice of Claim:
- PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations resulting in serious violations:



**Part B Requirements and/or Recommendations**

Serious violations were recorded on this investigation report. These violations will impact your safety record. Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

Jon Dierberger, Division Administrator
FMCSA, Tennessee Division
640 Grassmere Park, Suite 111
Nashville, TN 37211

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

Jon Dierberger, Division Administrator
FMCSA, Tennessee Division
640 Grassmere Park, Suite 111
Nashville, TN 37211

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

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. Part 385.17 (copy 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:

Jon Dierberger, Division Administrator
FMCSA, Tennessee Division
640 Grassmere Park, Suite 111
Nashville, TN 37211

This letter should be submitted as soon as possible. If you have a proposed Unsatisfactory or Conditional Rating the letter must be submitted prior to the effective date of your Unsatisfactory or Conditional Rating.

For all Investigations resulting in a proposed unsatisfactory rating:

- This review will result in a Proposed Safety Rating. The findings indicate you are currently operating at an unsatisfactory level of safety compliance. A written notice of proposed unsatisfactory rating will be sent to you by the FMCSA via U.S. Mail. If you fail to obtain an improved rating within 60 days of the date that notice is sent, the unsatisfactory rating will become final and you must cease interstate operations.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual 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:

- 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.





Part B Requirements and/or Recommendations

•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>

For all Investigations that could result in a Notice of Claim:

•PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations identified.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

For all Investigations resulting in serious violations:

Serious violations were recorded on this investigation report. These violations will impact your safety record.

Furthermore, these violations may result in a follow-up investigation at a later date unless adequate evidence of corrective action is forwarded to our office:

Jon Dierberger, Division Administrator

FMCSA, Tennessee Division

640 Grassmere Park, Suite 111

Nashville, TN 37211

For all Investigations where the carrier has been involved in 2 or more recordable crashes:

The Division Administrator/State Director will continue to consider preventability when a motor carrier contests a proposed safety fitness rating. The motor carrier may deem that the recordable accident rate is not a fair means of evaluating its accident factor (Factor 6) on the CR report. If so, the motor carrier must submit the compelling evidence within seven calendar days if the proposed rating is Unsatisfactory and 10 calendar days if the proposed rating is Conditional to:

Jon Dierberger, Division Administrator

FMCSA, Tennessee Division

640 Grassmere Park, Suite 111

Nashville, TN 37211

Compelling evidence must be limited to official police accident reports and official insurance accident investigation reports.

For all Investigations resulting in a proposed conditional or unsatisfactory rating:





THREE ANGELS FARMS (EDWIN AYACHE dba)
U.S. DOT #: 2100311

Review Date:
02/23/2012

Part B Requirements and/or Recommendations

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. Part 385.17 (copy 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. Review the attached "How to Request an Upgrade to your Safety Rating Determination Based on Corrective Action" for further information. When requesting a review of a Safety Rating per the procedures in 49 CFR 385.17, motor carriers must address all violations listed in this Review report. In evaluating a carrier's safety rating upgrade request, FMCSA will consider CSA scores, and the results of roadside inspections and crash data per the provisions of 49 CFR sections 385.5 and 385.7. Address your written request to:

Jon Dierberger, Division Administrator
FMCSA, Tennessee Division
640 Grassmere Park, Suite 111
Nashville, TN 37211

This letter should be submitted as soon as possible. If you have a proposed Unsatisfactory or Conditional Rating the letter must be submitted prior to the effective date of your Unsatisfactory or Conditional Rating.

For all Investigations resulting in a proposed unsatisfactory rating:

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual 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/>.

•This review will result in a Proposed Safety Rating. The findings indicate you are currently operating at an unsatisfactory level of safety compliance. A written notice of proposed unsatisfactory rating will be sent to you by the FMCSA via U.S. Mail. If you fail to obtain an improved rating within 60 days of the date that notice is sent, the unsatisfactory rating will become final and you must cease interstate operations.

Information on your compliance status, roadside inspections, regulatory changes, accident countermeasures and hazardous material incident prevention manual 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/>.





THREE ANGELS FARMS (EDWIN AYACHE dba)
U.S. DOT #: 2100311

Review Date:
02/23/2012

Part C

Reason for Review: Other

Post Crash

Planned Action: Prosecution

TN-2012-0050-US0856

Parts Reviewed Certification:

325	382	383	387	390	391	392	393	395	396	397	398	399	171	172	173	177	178	180
	✓	✓	✓	✓	✓	✓	✓	✓	✓									

Prior Reviews

Prior Prosecutions

Unsat/Unfit Information

Is the motor carrier of passengers subject to the safety fitness procedures contained in 49 CFR part 385 subpart A, AND does it transport passengers in a commercial motor vehicle?

Does carrier transport placardable quantities of hazardous materials?

Unsat/Unfit rule:

60-Day - no Interstate Passengers or Placardable HM

Corporate Contact: Edwin Ayache

Special Study Information:

Corporate Contact Title: Owner

Remarks:

CR preformed by: US0856

REMARKS:

INVESTIGATIVE REPORT RECEIVED BY:

Name: Dorian Ayache

Title: President

Carrier/Shipper Name: Three Angels Farm

Date: February 23, 2012

Telephone Number: (615) 715-1203, (161) 571-5120

REASON FOR INVESTIGATION:

An onsite comprehensive compliance review was conducted at Three Angels Farm of Lebanon, Tennessee. Three Angels Farm was reviewed due to a high profile accident where horses were injured and the driver complained of being exhausted after working all day and then driving. I was contacted by my FPM, Lisa Rouse and was asked to divert from my present destination and proceed to Three Angels Farm to investigate the driver accident and to make inquiries into whether Three Angels Farm DOT #2100311 was a reincarnation of a previous Three Angels Farm DOT #1740513. I originally contacted Three Angels Farm on January 18, 2012 and spoke with Mr. Dorian Ayache, president and manager at his principle place of business and set the compliance review date for January 23, 2012 at approximately 09:30 a.m. central time. While at Three Angels Farm principle place of business on January 18, 2012 I began my investigation into the possible reincarnate (chameleon) carrier. I looked at Mr. Ayache's business practices, trucks and trailers and their registrations, drivers, address of the principal place of business, company officials, the company's assets, telephone numbers, carriers insurance documents, checked to see if their customers where the same, the company's bank accounts, whether new company relies on any predecessors records to establish compliance with the FMCSR's and found that the only difference between the two companies was that the name of the owner was changed from Dorian Ayache to Edwin Ayache, although Dorian still referred himself as the president of the company. I relayed this information my Division Administrator Mr. Jon Dierberger and to my FPM Ms. Lisa Rouse. All three of us concurred that the new company was just a continuation of the old one that had been ordered to cease all interstate transportation due to their new entrant registration being revoked due to the failure of their safety audit and their unwillingness to submit a corrective action plan.

Upon Arrival at the offices of Three Angels Farm I met with Mr. Ayache, President of Three Angels Farm. I displayed my credentials and identified myself as a safety investigator for the Federal Motor Carrier Safety Administration/US DOT. This is a private property carrier of Horses. Mr. Ayache goes to livestock auctions and purchases of horses and takes them back





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to the pens at his farm and has them Vet checked and then transports them to buyers in Texas and Oklahoma. Three Angels Farm operates commercial motor vehicles throughout the Southern United States. Three Angels Farm employs 3 drivers at this time. Edwin Ayache (dba Three Angels Farm) had two (2) high basic at the time of the review: Fatigued Driving (hours of service) - 97.6% and Vehicle Maintenance - 93.8%, with two recordable accidents.

SCOPE OF INVESTIGATION:

An onsite comprehensive compliance review was conducted concerning Three Angels Farm to investigate the driver accident and to make inquiries into whether Three Angels Farm DOT #2100311 was a chameleon carrier (reincarnation) of a previous Three Angels Farm DOT #1740513. The amount of drivers in Three Angels Farm driver's pool required a sample of 3 drivers and 90 records of duty status for days driven for the computation of the required driver's records of duty status for hours of service violations, driver's qualification and vehicle maintenance violations.

CARRIER OPERATION DESCRIPTION:

This is a private property carrier horses. Mr. Ayache goes to livestock auctions and purchases the horses and takes them back to the pens at his farm and has them Vet checked and then transports them to buyers in Texas and Oklahoma. Three Angels Farm operates commercial motor vehicles throughout the Southern United States. Three Angels Farm owns 3 truck tractors and 3 livestock trailers.

Gross Revenue - \$120,000

Three Angels Farm officials interviewed were Mr. Dorian Ayache, President and Mrs. Pat Bullock, Office Manager.

Mr. Ayache, President, of Three Angels Farm stated that Three Angels Farm was not involved in emergency relief efforts or operating under an exemption or waiver.

Three Angels Farm is located at 151 Mill Road, Lebanon, TN 37090. This is the principle place of business of Three Angels Farm. Three Angels Farm parks their trucks and trailers in a parking lot beside their principle place of business.

Three Angels Farm does have a company policy concerning drug and alcohol testing only.

PRE-INVESTIGATION:

Three Angels Farm was reviewed due to a high profile accident where horses were injured and the driver complained of being exhausted after working all day and then driving. And I was contacted by my FPM, Lisa Rouse and was asked to divert from my present destination and proceed to Three Angels Farm to investigate the driver accident and to make inquiries into whether Three Angels Farm DOT #2100311 was a reincarnation of a previous Three Angels Farm DOT #1740513.

Three Angles Farm was added to my assignment list as a crash incident and possible chameleon carrier investigation assignment with a high risk for two (2) consecutive months. I downloaded Three Angles Farm MCMIS (Motor Carrier Management Information System) profile on January 18, 2012. I checked and printed out Three Angles Farm safety management system details that showed Three Angles Farm had 2 high basic's in Fatigued Driving (hours of service) - 97.6% and Vehicle Maintenance - 93.8%. I also checked Three Angles Farm fatigued driving drivers list for the drivers with the highest fatigued driving basics score, the drivers with the highest scores would be part of my driver sample selection. I did a preliminary CDLIS check on the worst drivers.

I downloaded the safety audits for the two companies DOT number 1740513 showing the owner as Dorian Ayache and dated September 2, 2010 with a proposed safety audit result of fail. The new company with DOT number 2100311 showing the owner as Edwin Ayache dated September 7, 2011 with a proposed safety audit result of fail. Mr. Dorian Ayache, DOT number 1740513, failed to submit a corrective action plan and was subsequently given an out of service order. Mr. Dorian Ayache's MCMIS profile still shows drivers on interstate trips after three angles Farm was placed out of service. Mr. Edwin Ayache, DOT number 2100311, did submit a satisfactory corrective action plan signed and submitted by Mr. Dorian Ayache and was allowed to remain in service.

C.A.I.R

CDLIS (DRIVER LICENSE) CHECK:

CDLIS checks were performed in accordance with the eFOTM. All drivers were checked. All results were negative.

AUTHORITY

This is a private property carrier of horses and does have the proper operating authority.





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INSURANCE

Three Angles Farm does have the proper amount of insurance in force

DRIVERS WITH RED FLAG VIOLATIONS:

Three Angles Farm did have not have ant red flagged drivers.

INVESTIGATION:

On January 18, 2012, at approximately 9:03 a.m. central time, I received a phone call from my FPM Miss Lisa Rouse, asking me to divert from my present assignment and proceed to Three Angles Farm to conduct an investigation into a possible chameleon carrier. I stopped my car and began downloading carrier information from MCMIS and noticed that three angles Farm had two DOT numbers 2100311 owned by Edward Ayache and 1740513 owned by Dorian Ayache.

On January 18, 2012, at approximately 10:05 a.m. central time I arrived at the principal place of business of three angles Farm and was greeted by Patricia Bullock, the office assistant. I displayed my credentials and identified myself as a safety investigator for the Federal Motor Carrier Safety Administration/US DOT. I asked her if Mr. Dorian Ayache was available to answer some questions for me. Ms. Bullock stated that Mr. Ayache was busy with the veterinarians that were checking his horses and would see if they could take a break and talk with me for a few minutes. Mr. Ayache came out of the barn and approached me. I displayed my credentials and identified myself as a safety investigator for the Federal Motor Carrier Safety Administration/US DOT. I asked him if he had a few minutes to answer some questions I had. He stated that the veterinarians were paid by the hour, but would take time to answer my question. I asked Mr. Ayache why he had two DOT numbers, and he stated that he had a bad record with his old DOT number. So he just stopped using it and started another business under his brother name. He stated that his brother, Mr. Edwin Ayache, who resides in Florida, was a silent owner and allowed Mr. Dorian Ayache to run the business as he had before. I asked him if he used the same vehicles and drivers, and he stated that everything was the same except that his brother's name was listed as owner. While at Three Angels Farm principle place of business on January 18, 2012 I began my investigation into the possible reincarnate (chameleon) carrier. I looked at Mr. Ayache's business practices, trucks and trailers and their registrations, drivers, address of the principal place of business, company officials, the company's assets, telephone numbers, carriers insurance documents, checked to see if their customers where the same, the company's bank accounts, whether new company relies on any predecessors records to establish compliance with the FMCSR's and found that the only difference between the two companies was that the name of the owner was changed from Dorian Ayache to Edwin Ayache, although Dorian still referred himself as the president of the company.

On January 23, 2012, at approximately 10:05 a.m. central time I arrived at the principal place of business of Three Angles Farm and began checking for hours of service and insurance violations. I talked with Mr. Ayache who is responsible for receiving the driver's trip reports as they are turned in. I informed him that I would need a complete driver's list showing the driver's hire date, termination date, birth date, CDL number and state of issue, and that I would need to see a full month drivers record of duty status for the 7 sampled drivers, their trip reports, fuel report and receipts. I informed him that I would also need a complete drivers list including all drivers used within the last 12 months, their Insurance documents, to have six months of drivers records of duty status available for review along with any supporting documents, fuel reports with dates and times and fuel receipts.

On February 3, 2012, at approximately 09:30 a.m. central time, I arrived at the offices of Three Angels Farm, and met with Mr. Ayache, President. I asked him to describe how and what documents he uses to check their drivers records of duty status for accuracy. Mr. Ayache stated that he does not check his driver's logs for 11, 14 and 70 hour violations. Mr. Ayache went on to state that no one was checking the drivers logs for accuracy.

I asked Mr. Ayache, President for Three Angels Farm for his drivers list, he had it prepared for me upon arrival at his offices.

On February 3, 2012, at approximately 12:05 p.m. central time, I began conducting level 5 vehicle inspections of Mr. Ayache's truck tractors and trailers. While conducting the level 5 inspections of Three Angels Farms tractor and trailers, it was noted that there were numerous out of service violations on each tractor and trailer. Violations on tractor #88: Drivers side steering axle brake was out of adjustment, and the passenger side axle two and three drive axle brakes were out of adjustment, putting this truck out of service. Violations on tractor #12, the passenger-side steering wheel brake was inoperative, along with both brakes on the number three axle on the tractor and the four and five axles on the trailer being out of adjustment placed the truck and trailer out of service. The fifth wheel was not locking into place allowing the fifth wheel to slide freely in the brackets. This violation placed the combination out of service, vehicle number 12 also had cracks in the truck to trailer electrical cord, allowing the wires to be exposed, and this violation placed the combination out of service. Violations on tractor #7: axle number three passenger side brake was out of adjustment and axle #5 also had





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both brakes out of adjustment and axle #4 had both brakes inoperable (the left side break was so corroded that the air bladder was expose). These violations placed all of Three Angels Farm's trucks and trailers out of service for a 100% out of service rate.

On February 13, 2012, at approximately 02:40 p.m. central time, I emailed the proposed Part C to the legal staff in the Southern Service Center for their determination of whether the two companies are a continuation. Ms. Stanziano determined that the two companies are separate entities and should be reviewed separately.

At the completion of my investigation of the Three Angels Farm records the reasons that Three Angels Farm was given a proposed unsatisfactory rating was due to their vehicle out of service rate, their accident rate and they're failing to require their drivers complete and submit drivers daily vehicle inspection reports.

At approximately 4:25 p.m. central time February 3, 2012, I completed my investigation of Three Angels Farm.

FOLLOW-ON ACTION:

Enforcement action is recommended.

382,301(a) Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.

396.1 - Failing to require driver to prepare driver vehicle inspection reports.

Three Angels Farm basic process breakdown was:

Fatigued Driving (hours of service) - 97.6% %

Policies and Procedures

Three Angels Farm has a company policy for drugs and alcohol but it does not mention any other aspect of the carriers operations. It does not outline who should receive the records of duty status (logs) or what must be checked when he logs are received in the office.

Vehicle Maintenance - 93.8%

Monitoring and Tracking

Three Angels Farm has a very generic policy concerning drugs and alcohol but does not cover their drivers completing and submitting their driver's daily vehicle inspection reports. It does not outline who should receive the drivers daily vehicle inspection reports (DVIR's) or what must be checked when the DVIR's are received in the office or what action must be taken when violations are found.

DOCUMENTS PROVIDED TO CARRIER:

Three Angels Farm was given a copy of the safety management cycle for Fatigued Driving and vehicle maintenance along with the corresponding basic fact sheet for each high basic.

During the close out of this review, all violations were explained to Mr. Ayache Present at the closeout will be Mr. Dorian Ayache, President and Mrs. Pat Bullock, Office Manager and S/I Jim Reid.

Enforcement action is recommended.

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