

STATE OF KANSAS



CORPORATION COMMISSION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3100  
FAX: 785-271-3354  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | DWIGHT D. KEEN, COMMISSIONER

**NOTICE OF PENALTY ASSESSMENT**  
19-TRAM-171-PEN

November 6, 2018

Brian Fox, Managing Member  
Fox Farms and Transport, LLC  
824 N 20th  
Walnut, KS 66780

This is a notice of a penalty assessment against Fox Farms and Transport, LLC (Fox Farms and Transport) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 3, 2018, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2019 Uniform Penalty Assessment Matrix, approved by the Commission on August 7, 2018. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

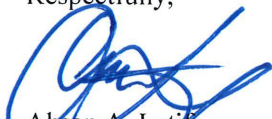
**IF YOU ACCEPT THE PENALTY:** Fox Farms and Transport has been assessed a \$3,500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$3,500, through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Fox Farms and Transport to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website [http://www.kcc.state.ks.us/trans/safety\\_meetings.htm](http://www.kcc.state.ks.us/trans/safety_meetings.htm). The Order also requires your company to submit to one follow-up safety compliance review within 18 months from the date of the Order. Transportation Staff will contact your company at a later date to determine an appropriate time for this review.

**IF YOU CONTEST THE PENALTY ORDER: 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. Fox Farms and Transport must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel. K.A.R. 82-1-215; K.S.A. 2017 Supp. 77-542.

**IF YOU FAIL TO ACT:** Failure to pay the penalty of \$3,500 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,

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

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

Before Commissioners:      Shari Feist Albrecht, Chair  
                                 Jay Scott Emler  
                                 Dwight D. Keen

In the Matter of the Investigation of **Fox Farms**    )  
**and Transport, LLC, of Walnut, KS,**    )  
Regarding the Violation of the Motor Carrier    )  
Safety Statutes, Rules and Regulations and the    ) Docket No. 19-TRAM-171-PEN  
Commission's Authority to Impose Penalties,    )  
Sanctions and/or the Revocation of Motor    )  
Carrier Authority.    )

**PENALTY ORDER**

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

**I.      JURISDICTION**

1.      Pursuant to K.S.A. 2017 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. 2017 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. 2017 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 issue an order 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. Fox Farms and Transport, LLC (Fox Farms and Transport) has common operating authority with the Commission and further operates USDOT number 2094592.

5. Cynthia Sutherland attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on January 24, 2017, on behalf of Fox Farms and Transport.

6. Fox Farms and Transport is a common motor carrier which primarily hauls metal, sheets, coils, rolls, building materials, grain, feed and hay.

## **III. STATEMENT OF FACTS**

7. Pursuant to the jurisdiction and authority cited above, on October 3, 2018, Commission Staff (Staff) Special Investigator Michael Heenan conducted a compliance review of the operations of Fox Farms and Transport. 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, the special investigator identified one (1) violation(s) of the Motor Carrier Safety Regulations.

- a. On June 29, 2018, Fox Farms and Transport required or permitted its driver, Kyle W. Adams, to operate a CDL-required commercial motor vehicle, a 2013 Kenworth, VIN ending in 358505, GVWR 52,000 lbs.,

pulling a 2008 Utility flatbed trailer, VIN ending in 275604, GVWR 68,000 lbs., in interstate commerce from Pittsburg, Kansas to Stephenville, Texas. This trip is evidenced by Driver's Daily Log, dated June 29, 2018, a copy of which is attached hereto as Attachment "B" and is hereby incorporated by reference. The special investigator discovered that Fox Farms Transport had obtained the driver's previous employer information and the driver had a positive result for THC on a pre-employment controlled substance test. The carrier had the driver perform a pre-employment controlled substance test and it resulted as negative, so the driver was hired. When a driver has a positive controlled substance test, the driver must meet with a SAP and obtain a return to duty authorization. Fox Farms Transport, nor the driver's previous employer had any documentation of the driver meeting with a SAP and having return to duty authorization. The carrier's allowance of a driver who had a positive result on a controlled substance test to report to duty without prior authorization and conduct a sensitive function is in violation of 49 C.F.R. 382.215, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 2017 Supp. 66-1,129. Staff recommends a fine of \$3,500.

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

8. Based upon the available facts, Staff recommends the Commission finds Fox Farms and Transport committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as

adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

9. Additionally, Staff recommends a civil penalty of \$3,500 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Fox Farms and Transport be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at [http://kcc.ks.gov/trans/safety\\_meetings.htm](http://kcc.ks.gov/trans/safety_meetings.htm).

11. Finally, Staff recommends that Fox Farms and Transport submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

## **V. CONCLUSIONS OF LAW**

12. The Commission finds it has jurisdiction over Fox Farms and Transport because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Fox Farms and Transport committed one (1) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

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

A. Fox Farms and Transport, LLC, of Walnut, KS is hereby assessed a \$3,500 civil penalty for one (1) violation(s) of Kansas law governing the regulation of motor carriers, the

Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Fox Farms and Transport is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Fox Farms and Transport is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the carrier to set up the appointment.

D. Pursuant to K.S.A. 2017 Supp. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Secretary to the Commission, at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Fox Farms and Transport's right to a hearing, and this Penalty Order will become a Final Order assessing a \$3,500 civil penalty against Fox Farms and Transport, and ordering a representative from Fox Farms and Transport to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order and provide Litigation Counsel with written proof of attendance, and to submit to a safety compliance review within 18 months from the date of this Order.

E. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest. K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a). For civil penalties less than \$500, a corporation may appear by a duly authorized representative of the corporation. K.S.A. 2017 Supp. 66-1,142b(e) and amendments thereto.

F. If you do not request a hearing, the payment of the civil penalty of \$3,500 is due in thirty (30) days from the date of service of this Order. Payment of \$3,500 must be made through your personal account with the Kansas Corporation Commission's KTRAN system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

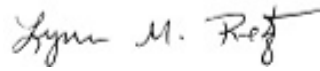
G. Failure to pay the \$3,500 civil penalty within thirty (30) days from the date of service of this Penalty Order, *see* K.S.A. 66-1,105, and/or failure to comply with the provisions of this Order, may result in suspension of Fox Farms and Transport's motor carrier operating authority without further notice. Additionally, the Commission may impose further sanctions to include, but not limited to, the issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

H. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further orders, as necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 11/06/2018

A handwritten signature in cursive script, reading "Lynn M. Retz".


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Lynn M. Retz  
Secretary to the Commission

AAL



## **ATTACHMENT “A”**

	<b>US DOT #</b> 2094592	<b>Legal:</b> FOX FARMS AND TRANSPORT, LLC <b>Operating (DBA):</b>																
<b>MC/MX #:</b> 732823		<b>Federal Tax ID:</b> [REDACTED] (EIN)																
<b>Review Type:</b> Compliance Review (CR)																		
<b>Scope:</b> Principal Office	<b>Location of Review/Audit:</b> Company facility in the U. S.																	
<b>Territory:</b> C																		
<b>Operation Types</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"><b>Interstate</b></td> <td style="width: 33%;"><b>Intrastate</b></td> <td style="width: 34%;"></td> </tr> <tr> <td><b>Carrier:</b> Non-HM</td> <td>Non-HM</td> <td rowspan="3"> <b>Business:</b> Corporation  <b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2017         </td> </tr> <tr> <td><b>Shipper:</b> N/A</td> <td>N/A</td> </tr> <tr> <td><b>Cargo Tank:</b> N/A</td> <td></td> </tr> </table>			<b>Interstate</b>	<b>Intrastate</b>		<b>Carrier:</b> Non-HM	Non-HM	<b>Business:</b> Corporation <b>Gross Revenue:</b> [REDACTED] for year ending: 12/31/2017	<b>Shipper:</b> N/A	N/A	<b>Cargo Tank:</b> N/A							
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<b>Shipper:</b> N/A	N/A																	
<b>Cargo Tank:</b> N/A																		
<b>Company Physical Address:</b> [REDACTED] WALNUT, KS 66780-4279  <b>Contact Name:</b> [REDACTED] <b>Phone numbers:</b> (1 [REDACTED]) <b>Fax:</b> [REDACTED] <b>E-Mail Address:</b> [REDACTED]																		
<b>Company Mailing Address:</b> [REDACTED] WALNUT, KS 66780-4279																		
<b>Carrier Classification</b> Authorized for Hire																		
<b>Cargo Classification</b> <table style="width: 100%;"> <tr> <td style="width: 33%;">Metal: Sheets, Coils, Rolls</td> <td style="width: 33%;">Building Materials</td> <td style="width: 34%;">Grain, Feed, Hay</td> </tr> </table>			Metal: Sheets, Coils, Rolls	Building Materials	Grain, Feed, Hay													
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<b>Equipment</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> <th></th> <th>Owned</th> <th>Term Leased</th> <th>Trip Leased</th> </tr> <tr> <td>Truck Tractor</td> <td style="text-align: center;">4</td> <td style="text-align: center;">2</td> <td style="text-align: center;">0</td> <td>Trailer</td> <td style="text-align: center;">4</td> <td style="text-align: center;">6</td> <td style="text-align: center;">0</td> </tr> </table>				Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased	Truck Tractor	4	2	0	Trailer	4	6	0
	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased											
Truck Tractor	4	2	0	Trailer	4	6	0											
Power units used in the U.S.: 6 Percentage of time used in the U.S.: 100																		
<b>Does carrier transport placardable quantities of HM?</b> No <b>Is an HM Permit required?</b> N/A																		
<b>Driver Information</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th></th> <th>Inter</th> <th>Intra</th> <th></th> </tr> <tr> <td>&lt; 100 Miles:</td> <td></td> <td></td> <td rowspan="2"> <b>Average trip leased drivers/month:</b> 0  <b>Total Drivers:</b> 4  <b>CDL Drivers:</b> 4         </td> </tr> <tr> <td>&gt;= 100 Miles:</td> <td style="text-align: center;">4</td> <td></td> </tr> </table>				Inter	Intra		< 100 Miles:			<b>Average trip leased drivers/month:</b> 0 <b>Total Drivers:</b> 4 <b>CDL Drivers:</b> 4	>= 100 Miles:	4						
	Inter	Intra																
< 100 Miles:			<b>Average trip leased drivers/month:</b> 0 <b>Total Drivers:</b> 4 <b>CDL Drivers:</b> 4															
>= 100 Miles:	4																	





**FOX FARMS AND TRANSPORT LLC**  
U.S. DOT #: 2094592

**Review Date:**  
10/03/2018

**Part A**

QUESTIONS regarding this report or the Federal Motor Carrier Safety or  
Hazardous Materials rules may be addressed to the Office of Motor Carriers at:

Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, Ks 66604-4027 785-271-3145

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

**Person(s) Interviewed**

**Name:**

**Name:**





**FOX FARMS AND TRANSPORT LLC**  
U.S. DOT #: 2094592

Review Date:  
10/03/2018

### Part B Violations

1 FEDERAL ACUTE	Primary: 382.215	Discovered 1	Checked 4	Drivers/Vehicles In Violation 1	Checked 4
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**Description**

Using a driver known to have tested positive for a controlled substance.

**Example**

Driver name: Kyle W Adams

Trip date: 6-29-18

Date of positive test: 5-21-18

At the time of this trip and the time of this review, the above driver was found positive in a pre-employment test for another carrier. The carrier failed to see that the driver had an evaluation with a substance abuse professional, return to duty test, and proper follow up tests to be able to continue driving a CDL required CMV. The carrier contacted Foley Services who instructed the carrier to do a pre-employment drug test and if negative to proceed as that was all they were allowed to do.

2 FEDERAL	Primary: 391.51(b)(5)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
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**Description**

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

**Example**

Driver name: Justin Hull

Trip date: 9-24-18

At the time of this trip, and the time of this review the carrier had annual reviews on their four drivers. All were expired in 2013 or missing.

3 FEDERAL	Primary: 391.51(b)(6)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
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**Description**

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

**Example**

river name: Justin Hull

Trip date: 9-24-18

At the time of this trip, and the time of this review the carrier had certifications of violations on their four drivers. All were expired in 2013 or missing.

<b>Safety Fitness Rating Information:</b>		<b>OOS Vehicle (CR): 0</b>	
Total Miles Operated	324,000	<b>Number of Vehicle Inspected (CR): 0</b>	
Recordable Accidents	1	<b>OOS Vehicle (MCMIS): 2</b>	
Recordable Accidents/Million Miles	3.09	<b>Number of Vehicles Inspected (MCMIS): 7</b>	

Your proposed safety rating is :  <b>SATISFACTORY</b>	<b>Rating Factors</b>		<b>Acute</b>	<b>Critical</b>
	Factor 1:	S	0	0
	Factor 2:	C	1	0
	Factor 3:	S	0	0
	Factor 4:	S	0	0
	Factor 5:	N	0	0
	Factor 6:	S	-	-

Corrective actions must be taken for any violations (deficiencies) identified on Part B of this report.





**FOX FARMS AND TRANSPORT LLC**  
U.S. DOT #: 2094592

Review Date:  
10/03/2018

## Part B Requirements and/or Recommendations

1. Each Driver Qualification File must contain a properly executed and signed Certification of Violations and a Annual Review of Driving Record completed yearly.
2. For all Investigations:
  - **Understand Why Compliance Saves Time and Money:** Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
  - **Document and Follow Through on Action Plans:** Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
  - **NOTICE:** A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
  - **NOTICE:** 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.  
The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:  
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>
  - All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:  
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>  
FMCSA recently announced planned improvements to the Carrier Safety Measurement System (SMS) which was implemented in December 2010 as part of the Agency's broader Compliance, Safety, Accountability (CSA) initiative. A preview of these improvements is currently available to motor carriers. The system changes are scheduled to be available to the public in July 2012. There will be additional opportunity for public comment on the changes after the preview period ends in July 2012. The improvements to SMS are based on ongoing analysis and feedback from enforcement personnel, the motor carrier industry, and other stakeholders. The changes more effectively identify and prioritize high-risk and other unsafe motor carriers for enforcement interventions designed to reduce commercial motor vehicle crashes and hazardous materials incidents. Motor carriers currently have the ability to preview how the improvements impact their individual safety data in SMS. These improvements include: (1) Changes to the SMS methodology that identify higher risk carriers while addressing industry biases; (2) better applications of SMS results for Agency interventions by more accurately identifying safety sensitive carriers (i.e., carriers transporting people and carriers hauling hazardous materials (HM)), so that such firms can be selected for CSA interventions at more stringent levels; and, (3) more specific fact-based displays of SMS results on the SMS Web site. The data preview may be found at <http://csa.fmcsa.dot.gov/>. During the data preview period, the Agency requests comments on the impacts of the changes.  
For all Investigations that 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.





**FOX FARMS AND TRANSPORT LLC**

U.S. DOT #: 2094592

Review Date:

10/03/2018

### **Part B Requirements and/or Recommendations**

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:

US Department of Transportation  
Federal Motor Carrier Safety Administration

Kansas Division

Jeff Ellett - Division Administrator

1303 First American Place, Suite 200

Topeka, KS 66604-4040

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:

US Department of Transportation

Kansas Division

Jeff Ellett - Division Administrator

Federal Motor Carrier Safety Administration

1303 First American Place, Suite 200

Topeka, KS 66604-4040

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:

US Department of Transportation

Jack Van Steenburg - 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:

US Department of Transportation

Max Strathman - Midwestern Field Administrator

Federal Motor Carrier Safety Administration

4749 Lincoln Mall Drive, Suite 300-A

Matteson, IL 60443

Ensure that a CC copy of the letter is mailed to:

US Department of Transportation

Kansas Division

Jeff Ellett - Division Administrator







**FOX FARMS AND TRANSPORT LLC**  
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10/03/2018

### Part B Requirements and/or Recommendations

<https://ai.fmcsa.dot.gov/login/default.asp>

You will need to enter your US DOT # Personnel Identification Number (PIN) that has been provided to you by FMCSA in the log in form at the bottom of the page. If you have forgotten your PIN you only need to click on a link on the webpage to make a request for your PIN to be forwarded to you by U.S. mail.

Safety Improvement Resources (SIRs) is a compilation of articles, reports, and other tools designed to assist motor carriers with improving their current safety management practices. SIRs are searchable by resource number, BASIC or safety management practice (SMP). Please refer to any Safety Improvement Resource numbers included within the recommendations.

You are encouraged to view all of the SIRs at the following website:  
[http://ai.fmcsa.dot.gov/sms/Data/carrier\\_sir.aspx](http://ai.fmcsa.dot.gov/sms/Data/carrier_sir.aspx)

6. 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.

7. I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of [Fox Farms and Transports LLC] operating authority and/or the impoundment of (Fox Farms and Transports LLC) vehicles.

Carrier Signature

*Brian T. P.*

Investigator Signature

*M. W. P. 8213*





FOX FARMS AND TRANSPORT LLC  
U.S. DOT #: 2094592

Review Date:  
10/03/2018

### Part B Requirements and/or Recommendations

Federal Motor Carrier Safety Administration  
1303 First American Place, Suite 200  
Topeka, KS 66604-4040

This letter should be submitted as soon as possible.

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

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to:

Kansas Corporation Commission  
Attn: Gary Davenport  
1500 SW Arrowhead Rd  
Topeka, KS 66604-4027

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

The KCC requires that you prepare a corrective action letter, addressing the measures taken to correct the violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail the letter along with copies of your supporting evidence to:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

4. "I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this website:  
[http://kcc.ks.gov/trans/penalty\\_assessment\\_table.htm](http://kcc.ks.gov/trans/penalty_assessment_table.htm)"

Carrier Signature

Investigator Signature

5. You are encouraged to review your company's safety record at the following website:





## **ATTACHMENT “B”**

# DRIVER'S DAILY LOG

Original: Submit To Carrier  
Duplicate: Driver Retain

Name of Carrier Fox Farms and Transport LLC  
604 North Summit Girard, KS 66743 US  
Carrier USDOT 2094592  
Driver Name Kyle Adams  
Driver ID 1970.kylea License [REDACTED]  
Driver Signature (Certified True and Correct)  
Co-Driver Name  
Co-Driver ID  
Unidentified Driving Records No Driver Exempt No

Shipper N/A  
Bill of Lading N/A  
Commodity N/A  
Data Diagnostic Indicators  
No

Start Time 6/29/2018 5:00 AM  
End Time 6/29/2018 5:49 PM  
Current Date 7/8/2018 1:23 PM  
Time Zone Offset UTC 5  
24-HR Starting Time Midnight  
Tractor Lic Pt or Unit No. 10681 (638 BlueKW)  
Vehicle VIN 1XKADP9X1DJ358505  
Ending Odometer 553268,553268  
Starting Odometer 550483,550483  
Miles Driven Today 5,570  
Current Odometer 553,268.38  
Current Location 1.97 miles NNW KS Pittsburg  
Current Engine Hours 18,058.9  
Trailer Lic Pt or Unit No. 82  
ELD Malfunction Indicators  
No

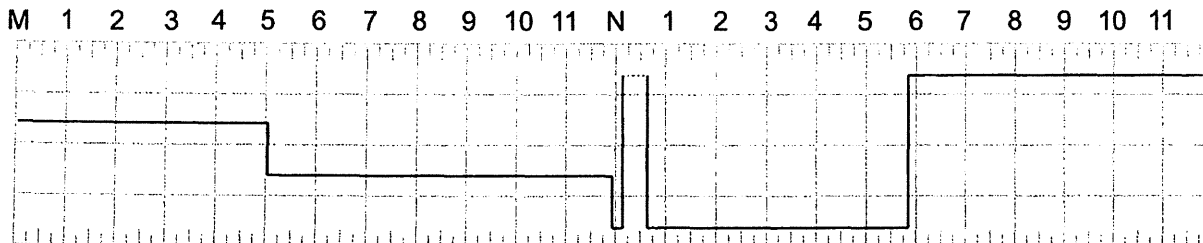
**DRIVING DAY**  
**06/29/2018**

## Duty Status

Use Local Time Standard at Home Terminal

## Grid

1. Off Duty
2. Sleeper Berth
3. Driving
4. On Duty (Not Driving)



Total Hours

06:42

05:00

06:54

05:24

**Legend**  
- - - Personal  
- - - Conveyance  
..... Yard Moves  
..... Rest Break

**CERTIFICATE OF SERVICE**

19-TRAM-171-PEN

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail/hand delivered on 11/07/2018.

BRIAN C. FOX, MANAGING MEMBER  
FOX FARMS AND TRANSPORT, LLC  
824 N 20TH  
WALNUT, KS 66780  
cynthia.sutherland.123@gmail.com

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

/S/ DeeAnn Shupe  
\_\_\_\_\_  
DeeAnn Shupe