

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

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

In the Matter of the Emergency Suspension of)
Operating Authority of **Auto Encomiendas Cruz**)
Express LLC of Kansas City, Kansas, for) Docket No. 19-TRAM-324-OOS
Failure to Comply with New Entrant Safety)
Requirements as Required by the Motor Carrier)
Safety Statutes, Rules and Regulations.)

ORDER REINSTATING MOTOR CARRIER OPERATING AUTHORITY

The above-captioned matter comes on for consideration and determination by the State Corporation Commission of the State of Kansas (Commission) upon its own motion. The Commission, being fully advised in the premises, finds as follows:

I. JURISDICTION

1. Pursuant to K.S.A. 2018 Supp. 66-1,108b, 66-1,111, 66-1,112, 66-1,114, 66-1,114b and 66-1,115, and amendments thereto, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in K.S.A. 2018 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. 2018 Supp. 66-1,129a, 66-1,130, and 66-1,142b, and amendments thereto, 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. 2018 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. BACKGROUND

4. Auto Encomiendas Cruz Express LLC is a motor carrier as defined in K.S.A. 2018 Supp. 66-1,108 that operates commercial motor vehicle(s) in both intrastate and interstate commerce in a manner that requires authority.

5. Auto Encomiendas Cruz Express LLC is registered as a motor carrier with the U.S. Department of Transportation (USDOT) and operates under USDOT Number 3059854.

6. The Commission received notice from the U.S. Department of Transportation, Federal Motor Carrier Safety Administration that Auto Encomiendas Cruz Express LLC's New Entrant Registration had been revoked effective February 12, 2019, for failure to comply with safety requirements.

7. Pursuant to the above authority, on February 19, 2019, the Commission entered an Emergency Suspension of Operating Authority Order on Auto Encomiendas Cruz Express LLC in the above-referenced docket, until such time that Staff recommended reinstatement.

III. STAFF'S RECOMMENDATION

8. On March 5, 2019, the Staff of the Transportation Division of the Kansas Corporation Commission (Staff) received notice from the U.S. Department of Transportation,

Federal Motor Carrier Safety Administration, that Auto Encomiendas Cruz Express LLC has submitted evidence of compliance with safety requirements as required in 49 C.F.R. 385.329. As a result, the carrier's reapplication for New Entrant registration under USDOT No. 3059854 has been approved and the carrier's authority to operate in interstate operations has been reinstated. See attached FMCSA reinstatement documentation.

9. Based on the Federal Motor Carrier Safety Administration's reinstatement, it is Staff's recommendation to reinstate Auto Encomiendas Cruz Express LLC's motor carrier operating authority in Kansas.

IV. CONCLUSIONS OF LAW

10. The Commission finds it has jurisdiction over Auto Encomiendas Cruz Express LLC because it is a motor carrier as defined in K.S.A. 2018 Supp. 66-1,108.

11. Based on the available facts, the Commission finds that Staff's recommendation to reinstate Auto Encomiendas Cruz Express LLC's operating authority in Kansas is reasonable.

THE COMMISSION THEREFORE ORDERS THAT:

A. Auto Encomiendas Cruz Express LLC's certificate, permit or license that is necessary to carry on the business of a private and/or public motor carrier in Kansas is hereby reinstated.

B. Auto Encomiendas Cruz Express LLC remains obligated to attend a Commission-sponsored safety seminar pursuant to the Emergency Suspension of Operating Authority Order at paragraph B., entered on February 19, 2019, and provide proof of attendance to Litigation Counsel.

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further Orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Albrecht, Commissioner; Emler, Commissioner

Dated: 03/12/2019



Lynn M. Retz
Secretary to the Commission

AAL



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

**AUTO ENCOMIENDAS CRUZ EXPRESS LLC
900 S 66TH TER
KANSAS CITY, KS 66111-2347**

Midwestern Service Center
4749 Lincoln Mall Drive, Suite
300a
Matteson, IL 60443

March 4, 2019

In reply refer to:
USDOT Number: **3059854**
MC Number: MC54562

Acceptance of Corrective Action

A safety audit was conducted on your company, which resulted in a failed safety audit. Following the safety audit, your company was advised to submit a written response outlining your company's corrective action plan (CAP) or your company's New Entrant registration would be revoked. AUTO ENCOMIENDAS CRUZ EXPRESS LLC submitted a CAP designed to ensure compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and/or the Hazardous Materials Regulations (HMRs).

After reviewing your response, the Federal Motor Carrier Safety Administration (FMCSA) has determined your corrective action plan is acceptable.

FMCSA will continue to monitor and evaluate AUTO ENCOMIENDAS CRUZ EXPRESS LLC's safety management practices and on-road performance to ensure AUTO ENCOMIENDAS CRUZ EXPRESS LLC has basic safety management controls that are operating effectively and is complying with Federal requirements including the FMCSRs and applicable HMRs. Failure to comply with applicable requirements may result in the revocation of AUTO ENCOMIENDAS CRUZ EXPRESS LLC's USDOT New Entrant or permanent registration.

If your New Entrant registration was revoked and its interstate operations placed out-of-service, you may reapply no earlier than 30 days after the date of revocation as follows: In order to reapply, your company must begin the application process from the beginning by submitting an updated Motor Carrier Identification Report (MCS-150), and restart the 18-month new entrant monitoring period. Reapplication may be made via the FMCSA web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA support services at 1-800-832-5660 or via the FMCSA web site at <http://www.fmcsa.dot.gov>. Additional instructions can be found in the enclosure entitled "Instructions for Electronic Re-application."

Please be aware, if AUTO ENCOMIENDAS CRUZ EXPRESS LLC requires motor carrier operating authority in addition to a USDOT New Entrant registration number, or if reinstatement of operating authority is necessary, AUTO ENCOMIENDAS CRUZ EXPRESS LLC is required to apply for and be granted such operating authority before conducting any transportation as a motor carrier in interstate commerce. Information on applying for motor carrier operating authority may be found at FMCSA's Web site, <http://www.fmcsa.dot.gov>.

Should you have any questions or need additional information, please contact a New Entrant Transportation Specialist at Telephone No.: 708-283-3564.

Sincerely,

Davina L. Farmer
Service Center Director

Enclosure:
Instructions for Electronic Re-application

Instructions for Electronic Re-application:

To obtain USDOT Registration Identification Number Application (MCS-150/MCS-150B) forms, please visit the following website(s):

- MCS-150 for transporters of general freight, hazardous materials not requiring a safety permit and passenger motor carriers:

<http://www.fmcsa.dot.gov/documents/forms/r-l/MCS-150-Instructions-and-Form.pdf>

Electronic Submission Instructions:

To electronically submit a USDOT Registration Identification Number (MCS-150) re-application form, the motor carrier must be prepared with the following items:

- A successfully submitted ACCEPTABLE Corrective Action Plan, and subsequent FMCSA Correspondence authenticating the success of the submission;
- The motor carrier's USDOT Identification Number
- The motor carrier's USDOT FMCSA Personal Identification Number (PIN).
 - o This number is located on the upper right hand side (below the carrier's USDOT ID number) of the motor carrier's New Entrant letter typically entitled, *Action Required: Call...to complete the registration process*. (Otherwise, it may be found on a previously requested PIN request reply notice.)
 - o A replacement PIN can be requested through the SAFER system by:
Telephone: 800-832-5660
Internet: https://li-public.fmcsa.dot.gov/LIVIEW/PKG_PIN_START.PRC_INTRO
- The motor carrier's Federal Tax Identification number (EIN-Employer Identification Number) or alternate identifier (e.g. Sole Proprietor's Social Security Number—SSN).
- Exact and official *Name of Company Official Authorized to Complete forms* (as reported on motor carrier's MCS-150).
- Exact and official *Title of Company Official Authorized to Complete forms* (as reported on motor carrier's MCS-150).
- The motor carrier's credit card account information, solely used for verification purposes (the USDOT FMCSA does not collect a USDOT Identification number registration fee.)

Use the following steps to successfully submit your MCS-150 for reapplication after revocation:

1. https://li-public.fmcsa.dot.gov/LIVIEW/PKG_REGISTRATION.prc_option
2. **Go to: I need to update my Operating Authority (MC/FF/MX number) registration information by:**
3. Select the following option:

I was registered with the FMCSA and now want to restart my business by:

- a. Reapplying for a USDOT number after revocation

4. Select Continue.
5. Select File Electronically.
6. Enter the following:

Identify Company		
USDOT NUMBER *	PIN *:	US Federal ID (EIN/ SSN) *:

Company Official	
Name of Company Official Authorized to Complete Forms *	
Title of Company Official Authorized to Complete Forms *	

7. Select continue.
8. Verify and confirm the resulting information screen.
9. Enter your verifying credit card information, then select continue.
10. Toggle through the MCS-150 application, making all applicable changes and updates, and SUBMIT.

CERTIFICATE OF SERVICE

19-TRAM-324-OOS

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 03/12/2019.

FELIX CRUZ, MANAGING MEMBER
AUTO ENCOMIENDAS CRUZ EXPRESS LLC
900 S 66TH TERR
KANSAS CITY, KS 66111-2347

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/S/ DeeAnn Shupe

DeeAnn Shupe