

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

November 8, 2018

19-TRAM-182-PEN

Johan Thiessen, Managing Member
Commodity Express, LLC
23928 Road 26
Plains, KS 67869

This is a notice of a penalty assessment against Commodity Express, LLC (Commodity Express) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 11, 2018, by Kansas Corporation Commission Special Investigator Jared Smith. 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: Commodity Express has been assessed a \$500 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$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 Commodity Express 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. 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. Commodity Express 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 \$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,

A handwritten signature in blue ink, appearing to read "Ahsan A. Latif".
Ahsan A. Latif
Litigation Counsel
(785) 271-3118

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

PENALTY ORDER

I. 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. Commodity Express, LLC (Commodity Express) has common operating authority with the Commission and further operates USDOT number 1717393.

5. Johan Thiessen attended a Commission-sponsored Motor Carrier Education and Safety Instructional Meeting on June 18, 2018, on behalf of Commodity Express.

6. Commodity Express is a common motor carrier which primarily hauls grain, feed and hay.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on October 11, 2018, Commission Staff (Staff) Special Investigator Jared Smith conducted a compliance review of the operations of Commodity Express. 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 March 5, 2018, Commodity Express required or permitted its driver, Johan Thiessen, to operate a CDL-required commercial motor vehicle, a 1999 Peterbilt, VIN ending in 499359, GVWR 52,000 lbs., pulling a 2015

Wilcox trailer, VIN ending in 2265301, GVWR 75,000 lbs., in intrastate commerce from Ingalls, Kansas to Wichita, Kansas. This trip is evidenced by Driver/Vehicle Examination Report Number KSHP04592109, dated March 5, 2018, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Commodity Express was operating over the maximum gross weight allowed in Kansas. The special investigator discovered three (3) violations of this type. The carrier’s failure to stay within the legal gross weight limit is a violation of 49 C.F.R 392.2, adopted by K.A.R. 82-4-3, and authorized by K.S.A. 8-1909. Staff recommends a fine of \$500.

IV. STAFF’S RECOMMENDATIONS

8. Based upon the available facts, Staff recommends the Commission finds Commodity Express 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 \$500 for one (1) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

10. Staff further recommends that a representative from Commodity Express 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.

11. Finally, Staff recommends that Commodity Express 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 Commodity Express because it is a motor carrier as defined in K.S.A. 2017 Supp. 66-1,108.

13. The Commission finds Commodity Express 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. Commodity Express, LLC, of Plains, KS is hereby assessed a \$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. Commodity Express 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. Commodity Express 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 Commodity Express' right to a hearing, and this Penalty Order will become a Final Order assessing a \$500 civil penalty against Commodity Express, and ordering a representative from Commodity Express 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 \$500 is due in thirty (30) days from the date of service of this Order. Payment of \$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 \$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 Commodity Express' 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: 10/08/2018




Lynn M. Retz
Secretary to the Commission

AAL

ATTACHMENT “A”

	US DOT # 1717393	Legal: COMMODITY EXPRESS LLC Operating (DBA):			
MC/MX #: 629856		Federal Tax ID:  EIN)			
Review Type: Non-ratable Review - CSA					
Scope: Principal Office		Location of Review/Audit: CSA Off-site		Territory:	
Operation Types		Interstate Intrastate			
Carrier: Non-HM Non-HM Shipper: N/A N/A Cargo Tank: N/A		Business: Corporation Gross Revenue:  for year ending: 12/31/2017			
Company Physical Address:  PLAINS, KS 67869					
Contact Name: Johan Thiessen Phone numbers: (1)  Fax E-Mail Address: 					
Company Mailing Address:  PLAINS, KS 67869					
Carrier Classification Authorized for Hire					
Cargo Classification Grain, Feed, Hay					
Equipment					
	Owned		Term Leased		Trip Leased
Truck	1	0	0	Truck	Tractor
	1	0	0	1	0
Power units used in the U.S. 2 Percentage of time used in the U.S. 100					
Does carrier transport placardable quantities of HM? No Is an HM Permit required? N/A					
Driver Information					
	Inter	Intra	Average trip leased drivers/month: 0		
< 100 Miles:			Total Drivers: 1		
>= 100 Miles:	1		CDL Drivers: 1		



	COMMODITY EXPRESS LLC U.S. DOT #: 1717393	Review Date 10/11/2018
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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

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Johan Thiessen

Title: Owner

Name:

Title:



	COMMODITY EXPRESS LLC	Review Date
	U.S. DOT # 1717393	10/11/2018

Part B Violations

1 STATE	Primary 392.2 Secondary K.S.A 8-1901	Discovered 3	Checked 3	Drivers/Vehicles In Violation 3	Checked 3
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Description

Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated

Example

On February 8, 2018 Commodity Express LLC had driver Johan Thiessen (KS CDL# [REDACTED]) operate a 1999 Peterbilt (Unit # 70, VIN # [REDACTED] 499359) in combination with a 2015 Wilcox (Unit # T70, VIN # [REDACTED] 2265301.) These vehicles have a gross vehicle weight rating of 52,000 lbs. and 65,000 lbs. Driver Johan Thiessen operated in commerce on an intrastate trip from Ingalls, Kansas to Wichita, Kansas. This trip is evidenced by a level II roadside inspection performed by Trooper W.R Stout (KS0459) with the Kansas Highway Patrol. At the time of this trip carer was found to be in violation of operating over the maximum gross weight allowed in Kansas

Safety Fitness Rating Information:


Total Miles Operated	257,739
Recordable Accidents	0

OOS Vehicle (CR): 0
Number of Vehicle Inspected (CR): 0
OOS Vehicle (MCMIS): 0
Number of Vehicles Inspected (MCMIS): 0

Your proposed safety rating is :

This Review is not Rated.



	COMMODITY EXPRESS LLC U.S. DOT # 1717393	Review Date 10/11/2018
Safety Management Process Breakdowns and Remedies		

1. 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

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.

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



	COMMODITY EXPRESS LLC U.S. DOT # 1717393	Review Date 10/11/2018
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Safety Management Process Breakdowns and Remedies

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. I acknowledge that the requirements and/or recommendations resulting from this off-site, focused review have been discussed with me and my questions have been answered. I further acknowledge that KCC recommendations only cover the scope of this focused review, and that areas not reviewed by the KCC have not necessarily been endorsed as compliant. 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 Commodity Express LLC's operating authority and/or the impoundment of Commodity Express LLC's commercial motor vehicles.

Carrier Representative Date

After reviewing these Requirements and/or Recommendations, please sign and date where indicated, and return to the Kansas Corporation Commission, ATTN Verna Jackson, Transportation Division, 1500 SW Arrowhead Rd, Topeka, Kansas 66604-4027, or fax 785-271-3124.



ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Kansas Highway Patrol
MOTOR CARRIER SAFETY ASSISTANCE
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP04592109
Inspection Date: 03/05/2018
Start: 5:20 AM CT End: 05:50 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

COMMODITY EXPRESS LLC

PLAINS, KS 67869
USDOT#: 01717393
MC/MX#: 629856
State#:

Phone#:
Fax#:

Driver: THIESSEN, JOHAN

License#: State: KS

Date of Birth:

CoDriver:

License#: State:

Date of Birth:

Location: MEADE COUNTY - 119

Highway: U54

County:

MilePost: 34

Origin: INGALLS, KS

Destination: WICHITA, KS

Shipper: PRIDE AG RESOURCES

Bill of Lading: 349493

Cargo: SOYBEANS

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TT	PTRB	1999	KS		70	499358	52,000			
2	ST	WLX	2015	KS		T70	2265301	75,000			

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.2-SLLEWA1	392.2-SLLEWA1	D	N		N	N	State/Local Laws - Excessive weight - 1-2500 lbs over on an axle/axle groups.
393.9	393.9	2	N		N	N	Inoperable Required Lamp: All ID

HazMat: No HM Transported.

Placard: No **Cargo Tank:**

Special Checks:

* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

Signature Of Repairer X: Facility: Date:

*** DRIVER, THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. ***
must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

*CARRIER CERTIFICATION: All defects on this sheet

Signature Of Motor Carrier X: Title: Date:

Report Prepared By:
W.R Stout

Badge #:
0459

Copy Received By:
JOHAN THIESSEN

Page 1 of 1



01717393 KS KSHP04592109

X

X

CERTIFICATE OF SERVICE

19-TRAM-182-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 11/09/2018.

JOHAN THIESSEN, MANAGING MEMBER
COMMODITY EXPRESS, LLC
23928 RD 26
PLAINS, KS 67869
Fax: 620-272-9781
com_express@yahoo.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