

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20210909114506
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
22-TRAM-117-PEN

September 9, 2021

Geneve Copp, President
Marco Express Inc
7844 W 155th Place
Overland Park, KS 66223

This is a notice of a penalty assessment against Marco Express Inc (Marco Express) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on August 31, 2021, by Kansas Corporation Commission Special Investigator Wade Patterson. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. 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: Marco Express has been assessed a \$3,600 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$3,600, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (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 Marco 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.

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. Marco 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 Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$3,600 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,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

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

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the Matter of the Investigation of **Marco**)
Express Inc, of Overland Park, KS, Regarding)
the Violation(s) of the Motor Carrier Safety)
Statutes, Rules and Regulations and the) Docket No. 22-TRAM-117-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 66-1,108b, 66-1,111, 66-1,112, and 66-1,114b, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, 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. 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. Marco Express Inc (Marco Express or Carrier) has common operating authority with the Commission and further operates under USDOT number 2394067.

5. There is no record of an authorized agent for Marco Express attending the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission.

6. Marco Express is a common motor carrier which primarily hauls general freight and meal.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on August 31, 2021, Commission Staff (Staff) Special Investigator Wade Patterson conducted a safety compliance review of the operations of Marco 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 six (6) violation(s) of the Motor Carrier Safety Regulations.

- a. On May 17, 2021, Marco Express required or permitted its driver, Kevin Wieman, to operate a CDL-required commercial motor vehicle, a 2017 Freightliner Cascadia 125, VIN ending in 9742, pulling a 53 foot

refridgerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by an Electronic Record of Duty Status for May 17, 2021, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Marco Express failed to ensure they had a designated individual trained in Supervisor Reasonable Suspicion testing. The Carrier’s failure to have a designated person undergo 60 minutes of training for controlled substance and 60 minutes of training for alcohol to determine drivers undergo reasonable suspicion testing is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

- b. During the transportation described in paragraph a., above, Marco Express permitted or required its driver, Mr. Wieman, to drive after the end of the fourteenth hour after coming on duty. The Special Investigator found twenty-eight (28) violations of this type. The Carrier permitting or requiring its drivers to operate past the fourteenth hour since coming on duty is a violation of 49 C.F.R. 395.3(a)(2), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.
- c. During the transportation described in paragraph a., above, Marco Express permitted its driver, Mr. Wieman, to drive more than eleven hours without qualifying for a rest break. The Special Investigator found twenty-six (26) violations of this type. The Carrier permitting or requiring its drivers to operate beyond the eleventh hour is a violation of 49 C.F.R. 395.3(a)(3)(i),

adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

- d. During the transportation described in paragraph a., above, Marco Express permitted or required its driver, Mr. Wieman, to drive over eight (8) hours without a minimum break of thirty (30) minutes. The Special Investigator found seven (7) violations of this type. The Carrier permitting or requiring its drivers to operate beyond eight hours without a sleeper berth period, off duty, or break of at least thirty minutes is a violation of 49 C.F.R. 395.3 (a)(3)(ii), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.
- e. On May 16, 2021, Marco Express required or permitted its driver, Kevin Wieman, to operate a CDL-required commercial motor vehicle, a 2017 Freightliner Cascadia 125, VIN ending in 9742, pulling a 53 foot re Fridgerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by an Electronic Record of Duty Status for May 16, 2021, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, Marco Express permitted or required its driver, Mr. Wieman, to continue to drive after having been on duty seventy (70) hours in eight (8) consecutive days. The Special Investigator found thirty-two (32) violations of this type. The Carrier permitting or requiring its drivers to operate beyond seventy (70) hours in eight (8) consecutive days is a violation of 49 C.F.R. 395.3(b)(2), adopted

by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$1,000.

- f. On May 7, 2021, Marco Express required or permitted its driver, Carl Cullwell, to operate a CDL-required commercial motor vehicle, a 2015 Freightliner Cascadia 125, VIN ending in 5142, pulling a 53 foot refrigerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by a Shipping Receipt of Property, Load ID: 1440127, a copy of which is attached hereto as Attachment “D” and is hereby incorporated by reference. At the time of this transportation, Marco Express failed to require its driver, Mr. Cullwell, to prepare a record of duty status. The Special Investigator found thirty (30) violations of this type. The Carrier’s failure to require its drivers to prepare records of duty status is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

IV. STAFF’S RECOMMENDATIONS

8. Staff submitted a Report and Recommendation (R&R), dated August 31, 2021, attached hereto as Attachment “E” and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

9. Based upon the available facts, Staff recommends the Commission finds Marco Express committed six (6) 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.

10. Additionally, Staff recommends a civil penalty of \$3,600 for six (6) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from Marco 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.

12. Staff further recommends Marco Express submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

13. Finally, Staff recommends that Marco 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

14. The Commission finds it has jurisdiction over Marco Express pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds Marco Express committed six (6) 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. Marco Express Inc, of Overland Park, KS is hereby assessed a \$3,600 civil penalty for six (6) 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. Marco 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. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Marco 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.

E. Pursuant to K.S.A. 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 Executive Director 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 Marco Express's right to a hearing, and this Penalty Order will become a Final Order.

F. 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.²

G. If you do not request a hearing, the payment of the civil penalty of \$3,600 is due in thirty (30) days from the date of service of this Order. Payment of \$3,600 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$3,600 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Marco Express's motor carrier operating authority without further notice.³ 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.

² . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

³ K.S.A. 66-1,105.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 09/09/2021



Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 2394067
MC/MX#: 0

Legal: MARCO EXPRESS INC
Operating (DBA):

Investigation Date:
08/31/21

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Company principal place of business (PPOB)

Extent of Operations: Entire Operation

Physical Address

7844 W 155TH PLACE
OVERLAND PARK, KS 66223
United States

Mailing Address

7844 W 155TH PLACE
OVERLAND PARK, KS 66223
United States

Contact Information

Contact Name: GENEVE COPP

Email: [REDACTED]

Phone: [REDACTED] **Cell:** ()- **Fax:** (239)970-0760

Business and Financial

Business Type: Corporation

Gross Revenue: [REDACTED] **For Year Ending:** 12/31/20

Federal Tax ID: [REDACTED]

Operation Classification and Type

Type of Operation: Non-HM Interstate Carrier, Non-HM Intrastate Carrier

Operation Classification

For-Hire Motor Carrier

Property

Other Non-Hazardous Freight

Cargo

General Freight, Meat, Refrigerated Food

Equipment

	Owned	Term Leased	Trip Leased
Truck Tractors	5		
Trailers	3		3

Power units used in the U.S.: 5

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

Driver Information

Drivers

	Intrastate	Interstate
< 100 Miles		
> = 100 Miles		6

Average trip leased driver/month: 0

Drivers with CDL: 6

Total Drivers: 6

Person(s) Interviewed**Name:** GENEVE COPP**Title:** PRESIDENT**Questions**

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:

1303 SW FIRST AMERICAN PL STE 200
TOPEKA, KS 66604-4040
Phone: (785) 271-1260
Fax: (877) 547-0378

This report will be used to assess your safety compliance.

Violations

<div>1. Primary: 395.3(a)(2)</div> <div>Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty.</div> <div><div>C</div><div>Critical</div><div>At least 10% of the number checked had violations</div></div>	<div>Violations Discovered</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>28</td><td></td><td>28</td></tr></table> <div>Checked</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>120</td><td></td><td>120</td></tr></table>	Fed	State	Total	28		28	Fed	State	Total	120		120	<div>BASIC Impacted Hours-of-Service Compliance</div>	<div>Rating Factor 3: Operational = Part 395</div>
Fed	State	Total													
28		28													
Fed	State	Total													
120		120													
<div>Example/Notes:</div> <div>On 05/17/2021 Marco Express Inc. had driver Kevin Wieman (MO CDL#W03702003) operate a CDL required vehicle (2017 Freightliner Cascadia 125 VIN#3AKJGLDR1HSHW9742 Unit#2009 combined with a 53' refer trailer Unit#412547) in interstate commerce. Driver Kevin Wieman operated this combination vehicle from Topeka Kansas to Sunnyvale Texas. This vehicle combination has a gross combination weight rating of 80,000 pounds. This trip is evidenced by an hours of service record and a bill of lading. At the time of this trip, carrier required or permitted a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty. At 9:22 am on 5/17/2021, driver Kevin Wieman drove an hour and a half past the fourteenth hour since coming on duty.</div>		<div>Drivers/Vehicles</div> <table><tr><th>In Violation</th><th>Checked</th></tr><tr><td>3</td><td>5</td></tr></table>		In Violation	Checked	3	5								
In Violation	Checked														
3	5														

<div>2. Primary: 395.3(a)(3)(i)</div> <div>Requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.</div> <div><div>C</div><div>Critical</div><div>At least 10% of the number checked had violations</div></div>	<div>Violations Discovered</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>26</td><td></td><td>26</td></tr></table> <div>Checked</div> <table><tr><th>Fed</th><th>State</th><th>Total</th></tr><tr><td>120</td><td></td><td>120</td></tr></table>	Fed	State	Total	26		26	Fed	State	Total	120		120	<div>BASIC Impacted Hours-of-Service Compliance</div>	<div>Rating Factor 3: Operational = Part 395</div>
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In Violation	Checked														
3	5														

bill of lading. At the time of this trip, carrier required or permitted a property-carrying commercial motor vehicle driver to drive more than 11 hours. Driver Kevin Wieman operated a total of nineteen hours before a qualifying rest break.

3. Primary: 395.3(b)(2)

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in 8 consecutive days.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
32		32

Checked

Fed	State	Total
120		120

BASIC Impacted
Hours-of-Service
Compliance

Rating Factor 3:
Operational = Part
395

Example/Notes:

On 05/16/2021 Marco Express Inc. had driver Kevin Wieman (MO CDL [REDACTED]) operate a CDL required vehicle (2017 Freightliner Cascadia 125 [REDACTED] Unit#2009 combined with a 53' refer trailer Unit#412547) in interstate commerce. Driver Kevin Wieman operated this combination vehicle from Topeka Kansas to Sunnyvale Texas. This vehicle combination has a gross combination weight rating of 80,000 pounds. This trip is evidenced by an hours of service record and a bill of lading. At the time of this trip, carrier required or permitted a property-carrying commercial motor vehicle driver to drive after having been on duty 70 hours in 8 consecutive days.

Drivers/Vehicles

In Violation	Checked
3	5

4. Primary: 395.8(a)(1)

Failing to require a driver to prepare a record of duty status using the appropriate method.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
30		30

Checked

Fed	State	Total
150		150

BASIC Impacted
Hours-of-Service
Compliance

Rating Factor 3:
Operational = Part
395

Example/Notes:

On 05-07-2021, Marco Express Inc. had driver Carl Cullwell (MO CDL [REDACTED]) operate a CDL required combination vehicle (2015 Freightliner Cascadia 125 [REDACTED] Unit#2005 and 53' refer trailer) in interstate commerce. This vehicle combination has a gross combination weight rating of 80,000 pounds. Driver Carl Cullwell operated this combination commercial vehicle from St. Joseph Missouri to Oakland California. This trip is evidenced by a bill of lading and a carrier e-mail. At the time of this trip and during the review, carrier failed to require a driver to prepare a record of duty status.

Drivers/Vehicles

In Violation	Checked
1	5

5. Primary: 382.603

Failing to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

On 05/17/2021 Marco Express Inc. had driver Kevin Wieman (MO CDL [REDACTED]) operate a CDL required vehicle (2017 Freightliner Cascadia 125 [REDACTED] Unit#2009 combined with a 53' refer trailer Unit#412547) in interstate commerce. Driver Kevin Wieman operated this combination vehicle from Topeka Kansas to Sunnyvale Texas. This vehicle combination has a gross combination weight rating of 80,000 pounds. This trip is evidenced by an hours of service record and a bill of lading. At the time of this trip, carrier failed to ensure person designated to determine that drivers undergo reasonable suspicion testing receive 60 minutes training for alcohol and/or 60 minutes of training for controlled substances.

Drivers/Vehicles

In Violation	Checked

6. Primary: 395.3(a)(3)(ii)

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after more than 8 hours driving have passed since the end of the driver's last on duty, off duty, or sleeper berth period of at least 30 minutes.

Violations Discovered

Fed	State	Total
7		7

Checked

Fed	State	Total
120		120

Example/Notes:

On 05/17/2021 Marco Express Inc. had driver Kevin Wieman (MO CDL [REDACTED]) operate a CDL required vehicle (2017 Freightliner Cascadia 125 [REDACTED])

Drivers/Vehicles

In Violation	Checked
3	5

V [REDACTED] Unit#2009 combined with a 53' refer trailer Unit#412547) in interstate commerce. Driver Kevin Wieman operated this combination vehicle from Topeka Kansas to Sunnyvale Texas. This vehicle combination has a gross combination weight rating of 80,000 pounds. This trip is evidenced by an hours of service record and a bill of lading. At the time of this trip, carrier required or permitted a property-carrying commercial motor vehicle driver to drive after more than 8 hours driving have passed since the end of the driver's last on duty, off duty, or sleeper berth period of at least 30 minutes.

Safety Fitness Rating

Your proposed safety rating is: **CONDITIONAL** 1 UNSATISFACTORY rating factor and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory		
Factor 3: Operational = Parts 392 and 395	Unsatisfactory		4
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 0 Number of Vehicles Inspected (MCMIS): 5 OOS Rate: 0%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Not Rated		
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 831,408 Recordable Accidents: 0 Recordable Accidents/Million Miles: 0.00	Satisfactory	N/A	N/A

Effective date: You will receive an official notice of proposed safety rating from the Federal Motor Carrier Safety Administration in Washington, D.C. The Conditional rating will take effect 60 days after the date of the official notice.

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

You may request a safety rating upgrade based on corrective action under 49 CFR 385.17 and/or an administrative review under 49 CFR 385.15.

Change to safety rating based on corrective action: You may request a change to a safety rating under 49 CFR 385.17 at any time by providing evidence that you have taken actions to correct the deficiencies that resulted in the safety rating. You must make this request in writing to the Field Administrator for the FMCSA Service Center in which you maintain your principal place of business. A pending request for a change in safety rating under 49 CFR 385.17 will not delay the effective date of the rating.

Administrative Review: You may appeal your proposed safety rating in a petition filed under 49 CFR 385.15 if you believe FMCSA made an error in assigning your safety rating. You must submit your appeal within 90 days of the date of the proposed safety rating or within 90 days after denial of a request for a change in rating under section 385.17(i). If the safety rating improves a previous Unsatisfactory rating, it becomes effective immediately and you must submit your appeal within 90 days of the final safety rating. A petition under section 385.15 will not delay the effective date of the rating unless the Chief Safety Officer grants a stay.

You must submit your appeal in writing to: Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590-0001.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and

track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Hours-of-Service Compliance

Process Breakdown: Monitoring and Tracking

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Implement an effective process for monitoring, tracking, and evaluating all drivers' compliance with Hours-of-Service (HOS) regulations and company policies.
2. Maintain roadside inspection, Records of Duty Status (RODS), supporting documents, dispatch schedules, and communication records to help evaluate the performance of all staff (drivers, dispatchers, and managers) involved in Hours of Service (HOS) and the effectiveness of compliance with HOS policies, procedures, and regulations.
3. Regularly evaluate the company's fatigue-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them.
4. Evaluate personnel (log clerks, payroll, dispatchers, and third-party safety consultants) who are monitoring drivers' Records of Duty Status (RODS) for accuracy; for whether they are applying performance standards fairly, consistently, and equitably; and for whether they are documenting evaluations.
5. Monitor and track driver-fatigue-related passenger complaints and assess safety implications.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Monitoring and Tracking

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Monitoring and Tracking:

1. Implement an effective process for monitoring and tracking drivers' removal from safety-sensitive functions and their return to duty according to controlled-substance and alcohol regulations and related company policies and procedures.
2. Maintain the following documents to help evaluate the performance of all staff (drivers and managers) involved in controlled-substance and alcohol testing and the effectiveness of the policies and procedures: Motor Vehicle Record (MVR); records related to testing, the designated employer representative (DER), return to duty, and dispatch; lists of drivers removed due to a history of controlled-substance and/or alcohol misuse and those disqualified for personal driving under the influence (DUI); substance-abuse professional (SAP) letters; and for each test type, include selection criteria, the eligibility-pool list, and the statistical laboratory summary.
3. Regularly evaluate the company's controlled-substance and alcohol-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with controlled-substance and alcohol regulations and company policies.
4. Evaluate personnel who are monitoring drivers against performance standards related to controlled-substance and alcohol regulations and company policies to ensure that they are applying standards fairly, consistently, and equitably, and are

documenting evaluations.

Recommendations

1. **Acute and Critical Violations**

Acute and/or Critical violations were recorded on this investigation report. These violations will impact your safety record.

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.

2. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

3. **Reasonable Suspicion Training**

Provide new-hire and refresher training, to all managers, other designated personnel, and the designated employer representative (DER), on controlled-substance and alcohol regulations and related company policies and procedures, including those pertaining to prohibited behavior; testing protocols and monitoring, for example, on grounds of "reasonable suspicion"; the consequences of a positive test result; referral to a substance-abuse professional (SAP); and confidentiality requirements in relation to recordkeeping.

4. **Require drivers to prepare complete and accurate records.**

Require all drivers to prepare complete and accurate records of duty status for each day, and to submit them within 13 days. Maintain all duty status records on file, with all supporting documents, for at least 6 months.

5. **Ensure property-carrying drivers take an off-duty period.**

Ensure property-carrying drivers take an off-duty period of 34 or more consecutive hours prior to restarting any period of 7/8 consecutive days.

6. **Hours-of-service regulations: 2003**

Drivers may drive 11 hours after 10 consecutive hours off-duty, but may not drive beyond the 14th hour after coming on-duty. Drivers may not drive after being on-duty for 60 hours in a seven-consecutive-day period or 70 hours in an eight-consecutive-day period. This on-duty cycle may be restarted whenever a driver takes at least 34 consecutive hours off-duty. Short-haul truck drivers, who routinely return to their place of dispatch after each duty tour and then are released from duty, may have an increased on-duty period of 16 hours once during any seven consecutive day period.

For more information on these regulations, please access the FMCSA website at www.fmcsa.dot.gov.

7. **KCC For All Investigations**

For all Investigations that could result in a Penalty Order:

PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Penalty Order. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in Marco Express Inc. (U.S.DOT#2394067) - 8/31/2021 - Page 7

any subsequent Penalty Order. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the KCC 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.

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 that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action plan (CAP), addressing the measures taken to correct all 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. Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov

FAX: 785-271-3124;

or mail to;

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Road

Topeka, KS 66604-4027

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 Southwest Transport Inc.'s authority and/or the impoundment of Southwest Transport Inc.'s Commercial Motor Vehicles.

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 web site: http://kcc.ks.gov/trans/penalty_assessment_table.htm

ATTACHMENT “B”

Electronic Record of Duty Status

Marco Express Inc (U.S. DOT# 2394067)

24 Period Start Time: Midnight

Time-Zone: CDT (UTC-5)

Driver: Kevin Wieman

Driver's License Missouri

Exempt Driver Status:

Manufacturer: Transflo-Pegasus Transtech

ELD Identifier: TFMELD

Output file comment: inv-1942097

File Generation:06/25/2021 15:05:50, CDT (UTC-5)

Location: 1mi S IN Delphi

Shipping Document Number:5019673

Trailer Numbers:Marco,Expr

Daily Log Filter Date between 5/16/2021 And 5/17/2021

Daily Log: 05/17/2021

Unidentified Driving Time: 00:00:00

Certified by Driver: No

Malfunctions: None

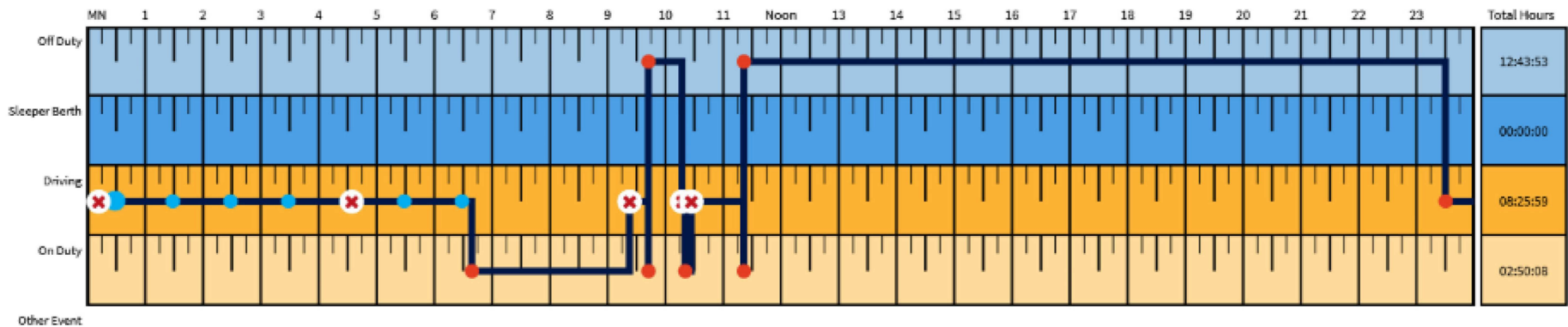
Data Diagnostics: None

CMVs

Date	Certificate
------	-------------

Power Unit #	VIN	Shipping Document Number	Start/End Engine Hours	Start/End Odometer	Miles Driven	Unidentified Driver Miles	Miles in Driving Status	Miles in PC/YM
2009		9742	18928.9 - 18943.4	1403928 - 1406524	2596	0	66	0

Record of Duty Status



Event Detail

Date	Time	Geo Location	Location Coordinates	Odometer	Engine Hours	Event Type/Status	Origin
05/17/2021	00:28:31	5mi E NM San Jon	35.12, -103.25	1,404,187	18,922.9	Intermediate log	ELD
05/17/2021	01:28:31	9mi WSW TX Bishop Hills	35.19, -102.08	1,404,256	18,921.8	Intermediate log	ELD
05/17/2021	02:28:31	2mi NW TX Clarendon	34.95, -100.91	1,404,327	18,923.8	Intermediate log	ELD
05/17/2021	03:28:31	14mi ESE TX Childress	34.38, -100.05	1,404,395	18,925.8	Intermediate log	ELD
05/17/2021	04:28:31	2mi E TX Electra	34.03, -98.89	1,404,467	18,927.8	Intermediate log	ELD
05/17/2021	05:28:31	1mi S TX Bowie	33.54, -97.84	1,404,541	18,929.8	Intermediate log	ELD
05/17/2021	06:28:31	2mi E TX Bedford	32.84, -97.1	1,404,613	18,931.8	Intermediate log	ELD
05/17/2021	06:38:51	3mi SE TX Euless	32.81, -97.03	1,404,619	18,931.9	On-duty, not driving	ELD

	Off						
05/17/2021	09:22:39	3mi SE TX Euless	32.81, -97.03	1,404,619	18,928.9	Driving	ELD
	Driver						
05/17/2021	09:42:16	3mi SE TX Euless	32.81, -97.03	1,404,619	18,929.2	On-duty, not driving	ELD
	Break						
05/17/2021	09:42:18	3mi SE TX Euless	32.81, -97.03	1,403,928	18,929.2	Off-duty	Other
	Generated for attempting to edit an auto ON log						
05/17/2021	10:17:19	3mi SE TX Euless	32.81, -97.03	1,404,619	18,929.9	Driving	ELD
05/17/2021	10:20:29	3mi SE TX Euless	32.81, -97.03	1,404,619	18,930	On-duty, not driving	ELD
05/17/2021	10:26:45	3mi SE TX Euless	32.81, -97.03	1,404,620	18,930.1	Driving	ELD
05/17/2021	11:21:18	1mi W TX Mobile City	32.92, -96.42	1,404,669	18,931.8	On-duty, not driving	ELD
	Off						
05/17/2021	11:21:20	1mi W TX Mobile City	32.92, -96.42	1,403,928	18,931.8	Off-duty	Other
	Generated for attempting to edit an auto ON log						
05/17/2021	23:30:12	1mi W TX Mobile City	32.92, -96.42	1,406,507	18,942.9	Driving	ELD
	Driver						

ATTACHMENT “C”

Electronic Record of Duty Status

Marco Express Inc (U.S. DOT# 2394067)

24 Period Start Time: Midnight

Time-Zone: CDT (UTC-5)

Driver: Kevin Wieman

Driver's License Missouri

Exempt Driver Status:

Manufacturer: Transflo-Pegasus Transtech

ELD Identifier: TFMELD

Output file comment: inv-1942097

File Generation:06/25/2021 15:05:50, CDT (UTC-5)

Location: 1mi S IN Delphi

Shipping Document Number:5019673

Trailer Numbers:Marco,Expr

Daily Log Filter Date between 5/16/2021 And 5/17/2021

Daily Log: 05/16/2021

Unidentified Driving Time: 00:00:00

Certified by Driver: Yes

Malfunctions: None

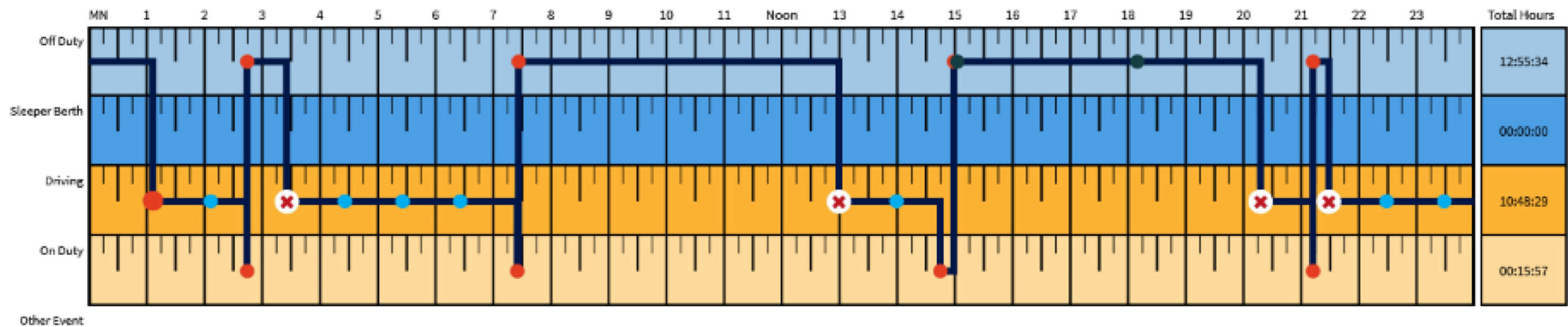
Data Diagnostics: None

Date	Certificate
5/16/2021	First certification

CMVs

Power Unit #	VIN	Shipping Document Number	Start/End Engine Hours	Start/End Odometer	Miles Driven	Unidentified Driver Miles	Miles in Driving Status	Miles in PC/YM
2009		5019673	18899.3 - 18931.9	1403430 - 1404619	1189	0	1187	0

Record of Duty Status



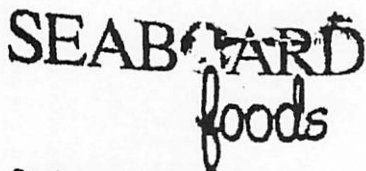
Event Detail

Date	Time	Geo Location	Location Coordinates	Odometer	Engine Hours	Event Type/Status	Origin
05/16/2021	01:06:22	7mi ESE NV Henderson	35.97, -114.91	1,403,430	18,899.3	Driving	ELD
05/16/2021	02:06:22	8mi SSW AZ Dolan Springs	35.48, -114.32	1,403,490	18,901.3	Intermediate log	ELD
05/16/2021	02:44:16	4mi N AZ Pinion Pines	35.2, -113.9	1,403,525	18,902.9	On-duty, not driving	ELD
	Fuel						
05/16/2021	02:44:18	4mi N AZ Pinion Pines	35.2, -113.9	1,403,430	18,902.9	Off-duty	Other
	Generated for attempting to edit an auto ON log						
05/16/2021	03:25:35	4mi N AZ Pinion Pines	35.2, -113.9	1,403,526	18,903.6	Driving	ELD
05/16/2021	04:25:35	2mi SSE AZ Seligman	35.29, -112.83	1,403,592	18,903.3	Intermediate log	ELD
05/16/2021	05:25:35	4mi S AZ Fort Valley	35.19, -111.72	1,403,658	18,905.3	Intermediate log	ELD

05/16/2021	06:25:35	11mi W AZ Joseph City	34.97, -110.51	1,403,733	18,907.3	Intermediate log	ELD
05/16/2021	07:24:45	1mi N AZ Sanders	35.22, -109.32	1,403,806	18,909.3	On-duty, not driving	ELD
05/16/2021	07:26:21	1mi N AZ Sanders	35.22, -109.32	1,403,806	18,906.3	Off-duty	Driver
	Break						
05/16/2021	12:59:11	1mi N AZ Sanders	35.22, -109.32	1,403,806	18,911.3	Driving	ELD
05/16/2021	13:59:11	5mi W NM Thoreau	35.42, -108.31	1,403,874	18,913.3	Intermediate log	ELD
05/16/2021	14:44:36	1mi N NM North Acomita Village	35.08, -107.56	1,403,927	18,915.1	On-duty, not driving	ELD
05/16/2021	14:58:53	1mi N NM North Acomita Village	35.08, -107.56	1,403,927	18,915.1	Off-duty	Driver
05/16/2021	15:02:22	1mi N NM North Acomita Village	35.08, -107.56	1,403,928	18,913.9	Shut-down	ELD
	Shipment(s): '5019673'						
05/16/2021	18:09:25	1mi N NM North Acomita Village	35.08, -107.56	1,403,928	18,913.9	Power-up	ELD
	Shipment(s): '5019673'						
05/16/2021	20:17:35	1mi N NM	35.08,	1,403,928	18,915.9	Driving	ELD

		North Acomita Village	-107.56				
	Driver						
05/16/2021	21:12:06	6mi N NM Pajarito Mesa	35.06, -106.78	1,403,976	18,916.9	On-duty, not driving	ELD
	Driver						
05/16/2021	21:12:08	6mi N NM Pajarito Mesa	35.06, -106.78	1,403,928	18,916.9	Off-duty	Other
	Generated for attempting to edit an auto ON log						
05/16/2021	21:28:31	6mi N NM Pajarito Mesa	35.06, -106.78	1,403,976	18,917.2	Driving	ELD
	Driver						
05/16/2021	22:28:31	12mi E NM Moriarty	35.01, -105.82	1,404,036	18,918.9	Intermediate log	ELD
05/16/2021	23:28:31	10mi ENE NM Santa Rosa	35.01, -104.52	1,404,112	18,920.9	Intermediate log	ELD

ATTACHMENT “D”



SHIPPING RECEIPT OF PROPERTY
TO BE TRANSPORTED
Original - Not Negotiable

Load ID: 1440127

Shipper: TF

EST: 31965

Shipper's No: 0736490

St. Joseph MO 64504

The undersigned Carrier ("Carrier") acknowledges receipt of the shipment described, consigned and destined as indicated below in good condition and order, except as noted, which the Carrier agrees to take to its place of delivery and destination. Every service performed hereunder shall be subject to all the terms and conditions of any written Transportation Agreement between Shipper and Carrier, and the terms and conditions set forth in this Receipt. If there is no separate written Transportation Agreement in effect, services shall be provided in accordance with the terms and conditions of this Receipt. Carrier agrees that, unless otherwise adopted in a written Transportation Agreement with Shipper, no tariff, service guide or other provisions published by Carrier shall be applicable to the services set forth herein. Carrier, as used herein, includes any person or corporation in possession or control of the shipment and who agrees to carry it to its place of delivery or destination.

Carrier and its agent(s) hereby certify that they are familiar with, and agree to, all the terms and conditions of any Transportation Agreement in effect and the terms of this Receipt for itself and its assigns

Run Unit	Seal(s) No	Shag	Y	Wash	Y	Trailer Number	Collect or Prepaid
-1.10 C	0097543 80151804					7472	Prepaid

BOL Date: May 7, 2021

Carrier: CLJY CARRIER LOGISTICS LLC

Scheduled Delivery Date/Time: 05/11/21 00:00

Total Miles: 1745

Line ONE
Vessel Name ONE CYGNUS

Voyage 7

Booking No
RICBZ6406300

Discharge Port
YOK/TOKYO

Delivery Terminal: OICT

SBDN

Stop 1
of 1
OrderNo: 2176649 SJ1
Itoham America
1999 MIDDLE HARBOR RD
1-6-21 Mita Meguroku
OAKLAND CA 94607

MDXQ

185996

P.O.: YS210503-1

Delivery P.O.:

Phone: 05104331810

Requested Delivery Date Time:
05/11/21 08:00

Prod#	Description	#Ctns	Net Wt	Gross Wt
23045	PORK SHOULDER BUTT CT BNLS FLO (EXPORT) 4 PC PRODUCT OF USA	250	4303.9	4693.9
24057	PORK SHOULDER BUTT BNLS 1/4" TRIM (EXPORT) PRODUCT OF USA	150	5090.4	5472.9
28043	PORK SHOULDER PICNIC BONELESS CUSHION PRODUCT OF USA	170	5888.5	6220.0
56712	PORK SKINLESS SHEET BELLY PRODUCT OF USA	100	4719.3	5164.3
81163	PORK BONELESS LOIN CNTR CUT STRAP ON (EXPORT)	380	14336.3	15510.5

CHZA 04627400

The pork items listed above are Product of USA.

IMPORTANT - CONSIGNEE-DRIVER IF AT THE TIME OF ARRIVAL, ANY DISCREPANCY EXISTS, CALL
Seaboard Foods (888) 690-9084 PRIOR TO RELEASING TRUCK.

Driver is responsible for counting and unloading of product at destination. No limitation of cargo loss or damage shall apply unless agreed to by Shipper in writing. Carrier agrees it is liable for full actual loss suffered by Shipper. Carrier may not limit its liability for cargo loss or damage unless it is specifically agreed to in writing by Shipper.

ON FREIGHT COLLECTION SHIPMENTS

If this shipment is to be delivered to the consignee, without recourse to the consignor/shipper, the consignor shall sign the following statement:

The Carrier may decline to make delivery of this shipment without payment of freight and all other lawful charges.

Seaboard Foods LLC

"Carrier"

Detention/Demurrage charges accruing at destination on subject shipment are for the account of the billed consignee or consigned to the order of notify party in case of order bill of lading.

By: ESB

By: _____

Permanent address of Seaboard Foods, 9000 W. 67th St., Suite 200, Shawnee Mission, KS, 66202

NOTICE OF SPECIAL DAMAGES

Carrier acknowledges that if Carrier fails to accomplish the transportation of services within the time set forth herein, Shipper may be damaged and suffer special damages as a result. See the back of this Receipt for further details.

Received in good condition by _____

Date _____

ATTACHMENT “E”

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

FROM: Mike Hoeme, Director of Transportation
Gary Davenport, Deputy Director of Transportation

DATE: August 31, 2021

SUBJECT: Docket No. 22-TRAM-117-PEN
In the Matter of the Investigation of Marco Express Inc of Overland Park, Kansas
Regarding the Violation of the Motor Carrier Rules and Regulations and the
Commission's Authority to Impose Penalties, Sanctions and/or the Revocation of
Motor Carrier Authority.

EXECUTIVE SUMMARY:

Marco Express Inc (Marco Express or Carrier) is a motor carrier possessing common operating authority from the Commission, primarily hauling general freight and meal. Marco Express operates under USDOT 2394067. On August 31, 2021, Commission Staff Special Investigator Wade Patterson conducted a safety compliance review of the operations of Marco Express. As a result of this investigation, the special investigator identified six (6) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$3,600.

DISCUSSION AND ANALYSIS:

On August 31, 2021, Commission Staff Special Investigator Wade Patterson conducted a safety compliance review of the operations of Marco Express. As a result of this investigation, the special investigator identified six (6) violation(s) of the Motor Carrier Safety Regulations.

Violation One (1 of 6)

On May 17, 2021, Marco Express required or permitted its driver, Kevin Wieman, to operate a CDL-required commercial motor vehicle, a 2017 Freightliner Cascadia 125, VIN ending in 9742, pulling a 53 foot refrigerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by an Electronic Record of Duty Status for May 17, 2021. At the time of this transportation, Marco Express failed to ensure they had a designated individual trained in Supervisor Reasonable Suspicion testing. The Carrier's failure to have a designated person undergo 60 minutes of training for controlled substance and 60

minutes of training for alcohol to determine drivers undergo reasonable suspicion testing is a violation of 49 C.F.R. 382.603, adopted by K.A.R. 82-4-3c, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$100.

Violation Two (2 of 6)

During the transportation described in Violation One, above, Marco Express permitted or required its driver, Mr. Wieman, to drive after the end of the fourteenth hour after coming on duty. The Special Investigator found twenty-eight (28) violations of this type. The Carrier permitting or requiring its drivers to operate past the fourteenth hour since coming on duty is a violation of 49 C.F.R. 395.3(a)(2), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Three (3 of 6)

During the transportation described in Violation One, above, Marco Express permitted its driver, Mr. Wieman, to drive more than eleven hours without qualifying for a rest break. The Special Investigator found twenty-six (26) violations of this type. The Carrier permitting or requiring its drivers to operate beyond the eleventh hour is a violation of 49 C.F.R. 395.3(a)(3)(i), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

Violation Four (4 of 6)

During the transportation described in Violation One, above, Marco Express permitted or required its driver, Mr. Wieman, to drive over eight (8) hours without a minimum break of thirty (30) minutes. The Special Investigator found seven (7) violations of this type. The Carrier permitting or requiring its drivers to operate beyond eight hours without a sleeper berth period, off duty, or break of at least thirty minutes is a violation of 49 C.F.R. 395.3 (a)(3)(ii), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

Violation Five (5 of 6)

On May 16, 2021, Marco Express required or permitted its driver, Kevin Wieman, to operate a CDL-required commercial motor vehicle, a 2017 Freightliner Cascadia 125, VIN ending in 9742, pulling a 53 foot refrigerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by an Electronic Record of Duty Status for May 16, 2021. At the time of this transportation, Marco Express permitted or required its driver, Mr. Wieman, to continue to drive after having been on duty seventy (70) hours in eight (8) consecutive days. The Special Investigator found thirty-two (32) violations of this type. The Carrier permitting or requiring its drivers to operate beyond seventy (70) hours in eight (8) consecutive days is a violation of 49 C.F.R. 395.3(b)(2), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$1,000.

Violation Six (6 of 6)

On May 7, 2021, Marco Express required or permitted its driver, Carl Cullwell, to operate a CDL-required commercial motor vehicle, a 2015 Freightliner Cascadia 125, VIN ending in 5142, pulling a 53 foot refrigerated trailer, combined GVWR 80,000 lbs., in interstate commerce in from Topeka, Kansas to Sunnyvale, Texas. This trip is evidenced by a Shipping Receipt of Property, Load ID: 1440127. At the time of this transportation, Marco Express failed to require its driver, Mr. Cullwell, to prepare a record of duty status. The Special Investigator found thirty (30)

violations of this type. The Carrier's failure to require its drivers to prepare records of duty status is a violation of 49 C.F.R. 395.8(a)(1), adopted by K.A.R. 82-4-3a, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$750.

RECOMMENDATION:

Transportation Staff recommends the Commission find Marco Express committed six (6) 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.

Additionally, Staff recommends a civil penalty of \$3,600 for six (6) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from Marco Express be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the 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.

Staff further recommends Marco Express submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

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

CERTIFICATE OF SERVICE

22-TRAM-117-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of first class mail and electronic service on 09/09/2021.

Geneve Copp, PRESIDENT
Marco Express Inc
7844 W 155th Place
Overland Park, KS 66223
geneve@marcoexpressinc.com

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

/S/ DeeAnn Shupe
DeeAnn Shupe