

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

|                                  |   |                             |
|----------------------------------|---|-----------------------------|
| RELIABLE TRANSPORTATION          | ) | Order No.: UT-2012-5000-IMH |
| SERVICES, INC.                   | ) |                             |
| USDOT 1720152                    | ) | Service                     |
|                                  | ) | Date: _____                 |
| and                              | ) |                             |
|                                  | ) | Time: _____                 |
| JAY ZACHARY BARBER, Individually | ) |                             |
|                                  | ) |                             |

**IMMINENT HAZARD**  
**OPERATIONS OUT-OF-SERVICE ORDER**

This notice is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) by the United States pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 5121, 49 U.S.C. § 13905(f), 49 U.S.C. § 31144(c)(1) and (2), 49 U.S.C. § 31144(c)(5), and 49 C.F.R. § 386.72(a) and (b), and pursuant to a delegation of authority to the Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Lakewood, Colorado. This ORDER applies to RELIABLE TRANSPORTATION SERVICES, INC., USDOT Number 1720152, and JAY ZACHARY BARBER, an individual (referred to collectively herein as “you,” “your,” and/or “RELIABLE TRANSPORTATION”).

The United States finds your commercial motor vehicle operations constitute an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your operation of any commercial motor vehicle poses an **imminent hazard** to public safety.

**EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS, INCLUDING ALL INTERSTATE OR INTRASTATE TRANSPORTATION OF PROPERTY BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.**

Commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the cargo on board can be safely secured. (See 49 C.F.R. § 386.72(b)(4) and (5)).

**NO ADDITIONAL CARGO OR PROPERTY MAY BE LOADED OR TRANSPORTED, NOR MAY ANY COMMERCIAL MOTOR VEHICLES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.**

A commercial motor vehicle may be moved to a location to be repaired only upon approval from the Field Administrator for FMCSA's Western Service Center.

**I. JURISDICTION**

RELIABLE TRANSPORTATION SERVICES, INC. is a motor carrier engaged in interstate commerce using commercial motor vehicles and employing drivers and JAY ZACHARY BARBER, an individual, is the sole manager, director, and an employee of RELIABLE TRANSPORTATION SERVICES, INC., and is therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.F.R. Parts 350-399, and the alcohol and controlled substances regulations at 49 C.F.R. Part 40, as well as the Orders of the USDOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 521, 13501, 31132, 31133, 31136, and 31144). RELIABLE TRANSPORTATION is required to comply, and to ensure its drivers comply, with the FMCSRs. 49 C.F.R. § 390.11.

**THE PROHIBITIONS ON OPERATION IN THIS ORDER APPLY TO RELIABLE TRANSPORTATION AS WELL AS ANY AND ALL OF ITS OFFICERS, DIRECTORS, MANAGERS, SUCCESSORS, ASSIGNS AND CLOSELY AFFILIATED COMPANIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, RELIABLE TRANSPORTATION MAY NOT USE TRUCKS, TRAILERS, OR ANY OTHER COMMERCIAL MOTOR VEHICLES TO SUPPLEMENT ANY CONTINUED OPERATIONS.**

## **II. BASIS FOR ORDER**

The basis for determining that RELIABLE TRANSPORTATION's motor carrier operations pose an imminent hazard to the public is that RELIABLE TRANSPORTATION has violated countless federal statutory and regulatory motor carrier safety rules and has been in at least seven crashes in the last year, which include six crashes since December 2011. JAY ZACHARY BARBER acts as the sole manager, director and an employee of RELIABLE TRANSPORTATION and is responsible for its motor carrier operations. RELIABLE TRANSPORTATION currently fails to monitor and ensure that its drivers comply with drivers' hours of service (HOS) and records of duty status requirements; fails to ensure that its commercial motor vehicles are inspected, repaired, and maintained; fails to ensure that its drivers have appropriate licenses and endorsements for the commercial motor vehicles they operate; fails to ensure its drivers are medically examined and certified; fails to ensure its drivers are properly qualified to operate commercial motor vehicles; fails to comply with driver controlled substances and alcohol use testing requirements; fails to comply with hazardous materials regulations (HMRs), including registration requirements, training requirements and placarding requirements; and intentionally submits fraudulent documents in order to avoid detection of continued safety

violations, thereby posing an ongoing and continuing imminent hazard. The FMCSA's Safety Measurement System ("SMS") also indicates that RELIABLE TRANSPORTATION exceeds by a significant margin the intervention threshold for the Unsafe Driving, Fatigue Driving, and Driver Fitness Behavior Analysis and Safety Improvement Categories ("BASICS") in all three BASICS.<sup>1</sup>

RELIABLE TRANSPORTATION does not require drivers to submit records of duty status, does not monitor records of duty status and does not maintain driver records of duty status on current drivers to ensure compliance with HOS requirements or to ensure drivers are adequately rested before operating commercial motor vehicles. In addition, RELIABLE TRANSPORTATION fails to ensure its commercial motor vehicles are properly and regularly inspected, repaired and maintained. You do not maintain any records of maintenance for the commercial motor vehicles you operate and appear to be unaware of and unconcerned about the mechanical state of the vehicles. Moreover, you fail to have any safety management system in place to ensure your commercial motor vehicle drivers hold current commercial driver's licenses with proper endorsements, including endorsements for transporting hazardous materials. RELIABLE TRANSPORTATION uses drivers with suspended or disqualified commercial driver's licenses and at least one driver that was not medically reexamined or certified. Additionally, you use drivers despite not having ensured the driver is qualified to operate a commercial motor vehicle, including drivers that you have not made the required inquiries into

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<sup>1</sup> The SMS is a tool for assessing available roadside performance data and ranking an entity's relative performance in any of the six Behavior Analysis and Safety Improvement Categories (BASICS). The SMS quantifies the on-road safety performance of individual entities to identify entities with significant safety problems, determine the specific safety problems an entity exhibits, and monitor safety problems through the Intervention Process. The SMS computes a percentile for each BASIC on a 0-100 scale and assigns a percentile rank to each BASIC, with 100 indicating the worst performance. RELIABLE TRANSPORTATION, INC.'s safety performance scores were very poor in all three of these BASICS.

the drivers' driving record. Furthermore, you used at least one driver to transport hazardous materials that did not hold a hazardous materials endorsement and you told the driver that he was transporting general freight. On this occasion, you concealed from the driver that he was transporting hazardous materials. The vehicle was not placarded, as required by regulation, and in the event of a crash, first responders and the public would be placed in peril having no indicator that the commercial motor vehicle contained hazardous materials. On other occasions, you failed to properly placard commercial motor vehicles to indicate that hazardous materials were being transported, in violation of the requirements found in 49 C.F.R. Part 172, Subpart F. Moreover, you failed to register with the U.S. Department of Transportation as a hazardous material carrier or conduct any hazardous material training.

You also failed to maintain any driver qualification files to ensure your drivers are qualified to operate commercial motor vehicles. RELIABLE TRANSPORTATION does not have a controlled substance and alcohol testing program and none of its drivers have received a negative pre-employment controlled substance test, nor have its drivers been subject to random controlled substance and alcohol testing as required by Federal regulations. In the past year, you used at least three drivers, who were cited for alcohol related violations during roadside inspections. Furthermore, you do not conduct and have not conducted required post-accident controlled substance or alcohol tests on drivers involved in qualifying accidents. Finally, RELIABLE TRANSPORTATION has been in seven recordable accidents since April 2011, including six since December 2011.

In March 2012, RELIABLE TRANSPORTATION has been undergoing a compliance review. You were found to have committed multiple violations of separate hazardous materials regulations; six separate controlled substances and alcohol use and testing regulations, including

using forty-two drivers before the drivers received a negative pre-employment controlled substances test result; and two separate commercial driver's license violations, including knowingly using a driver with a suspended license. Additionally, you failed to maintain proof of insurance at your principle place of business and failed to maintain an accident register. You also falsified at least twenty-one leases in an attempt to evade detection of negative roadside safety performance. On at least one occasion, RELIABLE TRANSPORTATION intentionally used a driver not medically reexamined and certified. You did not maintain driver qualification files for twenty-five drivers checked during an investigation. You failed to collect or maintain any driver records of duty status, failed to monitor maximum driver time, and failed monitor if your drivers falsified their records of duty status. You had no safety management plan in place to determine whether or not your drivers violated HOS rules contained in 49 C.F.R. Part 395. Finally, you failed to keep any records of vehicle maintenance on the commercial motor vehicles you operated and were unaware of any maintenance problems with the vehicles, thereby failing to ensure your commercial motor vehicles were properly and regularly inspected, repaired and maintained.

Individually and cumulatively, these violations and these conditions of operation as well as your lack of basic safety management controls substantially increase the likelihood of serious injury or death to RELIABLE TRANSPORTATION drivers and the motoring public.

### **III. BACKGROUND**

RELIABLE TRANSPORTATION's principle, operations manager and safety director JAY ZACHARY BARBER previously operated and managed a motor carrier named FACTORY DIRECT FOODS, LLC (USDOT 1546644). On or about November 10, 2009, a compliance review was completed on FACTORY DIRECT FOODS LLC. That compliance

review resulted in a proposed UNSATISFACTORY safety rating that became effective (final) on January 13, 2010. Based on the UNSATISFACTORY safety rating, FACTORY DIRECT FOODS LLC was placed out of service on January 13, 2010. FACTORY DIRECT FOODS LLC had previously received an UNSATISFACTORY safety rating in 2008 while JAY ZACHARY BARBER was the owner and manager of the company. FACTORY DIRECT FOODS LLC operated out of the same general area in which RELIABLE TRANSPORTATION currently operates and conducted substantially the same business as RELIABLE TRANSPORTATION. FACTORY DIRECT FOODS LLC's UNSATISFACTORY safety rating resulted from many of the same type of safety violations that have been found at RELIABLE TRANSPORTATION, including violations of controlled substance and alcohol testing, driver qualification, HOS, and vehicle maintenance regulations. JAY ZACHARY BARBER began working at RELIABLE TRANSPORTATION SERVICES, INC., shortly after FACTORY DIRECT FOODS LLC was placed out of service in January 2010. Corporate documents list JAY O. BARBER, JAY ZACHARY BARBER's father, as the president of RELIABLE TRANSPORTATION SERVICES, INC. JAY O. BARBER lives in Florida and is employed full-time as an attorney with Workforce Florida. RELIABLE TRANSPORTATION SERVICES, INC., is based in Utah and conducts operations in the western part of the United States. JAY O. BARBER was not present for RELIABLE TRANSPORTATION SERVICES, INC.'s March 2012 compliance review.

The current ongoing compliance review of RELIABLE TRANSPORTATION disclosed violations of the FMCSRs so widespread as to demonstrate a continuing and flagrant disregard for compliance with the FMCSRs and a management philosophy indifferent to motor carrier safety. RELIABLE TRANSPORTATION's actions and operations establish an imminently

hazardous and potentially deadly situation for its drivers and the motoring public.

Based on roadside inspections and other data compiled by FMCSA, RELIABLE TRANSPORTATION has an SMS score of 81.9% in the Unsafe Driving BASIC, 92.5% in the Fatigued Driving (Hours of Service) BASIC, and 84.1% in the Driver Fitness BASIC. Each of these SMS scores indicates that RELIABLE TRANSPORTATION significantly exceeds the FMCSA intervention threshold. Further, RELIABLE TRANSPORTATION has engaged in a pattern and practice of attempting to evade detection of violations by attempting to assign, through DataQs challenges<sup>2</sup>, at least twenty-one roadside inspections (indicating safety violations) to at least one other motor carrier that is currently out of business. Furthermore, RELIABLE TRANSPORTATION had at least seven crashes since April 5, 2011, which included six crashes in December 6, 2011.

#### **IV. REMEDIAL ACTION**

To eliminate this imminent hazard, and before RELIABLE TRANSPORTATION will be permitted to resume operations that have been placed out of service by this Order, you must take specific steps to ensure and demonstrate compliance with the FMCSRs. In addition, before resuming interstate operations, you must apply for and receive new operating authority registration from FMCSA pursuant to 49 U.S.C. § 13902 and 49 C.F.R. Part 365.

#### **YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER**

A. RELIABLE TRANSPORTATION must comply with all Orders issued by FMCSA and must submit to the Field Administrator a plan detailing how you will: (i) train all drivers used by RELIABLE TRANSPORTATION or its successors, assigns or closely related affiliates, on

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<sup>2</sup> The DataQs system is an electronic means for filing concerns about Federal and State data released to the public by the Federal Motor Carrier Safety Administration (FMCSA). Through this system, data concerns are automatically forwarded to the appropriate office for resolution. See <https://dataqs.fmcsa.dot.gov/login.asp>.

compliance with the HOS regulations; (ii) monitor the compliance of all drivers used by RELIABLE TRANSPORTATION or its successors, assigns or closely related affiliates with the HOS regulations; and (iii) ensure that all drivers used by RELIABLE TRANSPORTATION or its successors, assigns or closely related affiliates are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

B. RELIABLE TRANSPORTATION must establish and implement a complete and compliant alcohol and controlled substances testing program that complies with the requirements of 49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs) and 382 (Controlled Substances and Alcohol Use and Testing) and provide evidence of this program to the Field Administrator for FMCSA's Western Service Center.

C. RELIABLE TRANSPORTATION must ensure that each and every driver subject to the commercial driver's license requirements of 49 C.F.R. Part 383 is tested for controlled substances use, and provide documentation of such testing, including copies of custody and control forms and test results reviewed by a medical review officer, to the Field Administrator for FMCSA's Western Service Center.

D. RELIABLE TRANSPORTATION must establish safety management controls and procedures to ensure that each and every driver it uses is qualified to operate a commercial motor vehicle and that it has obtained and maintains all required documentation showing the qualification of each driver as required by 49 C.F.R. Part 391. You must ensure that each and every driver you use to operate a commercial motor vehicle has been medically examined and certified as required, and must provide medical certificates for each and every driver to the Field Administrator for FMCSA's Western Service Center. You must check the driving record of each and every driver you uses to operate a commercial motor vehicle and obtain copies of the driving

records for each driver. You must provide copies of driver records for each and every driver to the Field Administrator for FMCSA's Western Service Center.

E. RELIABLE TRANSPORTATION must establish safety management controls and procedures to ensure that each and every driver that operates a commercial motor vehicle has the necessary drivers' license, including any required endorsements, for the motor vehicle(s) the driver operates. You must also ensure that all drivers required to have commercial driver's licenses have valid and current commercial driver's licenses.

F. RELIABLE TRANSPORTATION must ensure that it maintains driver qualification files, as required by 49 C.F.R. Part 391. RELIABLE TRANSPORTATION must ensure that every driver it uses has completed and furnished an employment application. RELIABLE TRANSPORTATION must investigate each driver's background within 30 days of employment, and must maintain a copy of the response from each State agency in the driver's qualification file. RELIABLE TRANSPORTATION must ensure that it obtains from each driver an annual list of traffic violations, that it obtains an annual Motor Vehicle Record, and that it performs an annual review on each driver's driving record.

G. RELIABLE TRANSPORTATION must implement a system to ensure that all its drivers comply with the hours of service regulations, and accurately complete their records of duty status in the form and manner required in 49 C.F.R. Part 395. RELIABLE TRANSPORTATION must ensure that its drivers accurately complete their daily records of duty status and that they submit these records to RELIABLE TRANSPORTATION within 13 days of their completion. Further, RELIABLE TRANSPORTATION must demonstrate a system to ensure that all records of duty status are accurate by using all means available to you and by comparing each record with all

supporting documentation. You must ensure records are maintained in compliance with retention requirements.

H. RELIABLE TRANSPORTATION must establish safety management controls and procedures that ensure that each and every commercial motor vehicle it operates is inspected, maintained and repaired as required by 49 C.F.R. Part 396. RELIABLE TRANSPORTATION must require its drivers to prepare Driver Vehicle Inspection Reports at the end of each day and establish procedures to ensure that reported safety defects and/or deficiencies are repaired immediately. You must also ensure that each and every commercial motor vehicle you operate is periodically inspected as required.

I. RELIABLE TRANSPORTATION must maintain records of inspections, repairs, and maintenance indicating the date and nature of the work performed. You must maintain completed inspection forms for 12 months from the date of inspection at your principal place of business. You must maintain evidence of inspector and brake inspector qualifications.

J. RELIABLE TRANSPORTATION must ensure that it maintains proper proof of insurance in the required format as indicated in 49 C.F.R. Part 387 at your principal place of business.

K. RELIABLE TRANSPORTATION must ensure it registers with the U.S. Department of Transportation when offering or transporting a hazardous material subject to the requirements of 49 C.F.R. Part 107. You must ensure when transporting or accepting a shipment of hazardous materials that is in the proper condition for transportation, that it contains the proper shipping paper, that it is packaged properly, that it is marked and labeled properly, that it contains emergency response information and that it is properly placarded. You must retain hazardous material shipping papers for the proper length of time. You must ensure proper hazardous

material training has been conducted with each hazardous material employee as required 49 C.F.R. Part 172.

L. RELIABLE TRANSPORTATION must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of your commercial motor vehicles are repaired prior to the vehicle being operated to transport cargo. You must ensure that no commercial motor vehicle that fails, or has failed, a safety inspection is used for the transportation of cargo prior to necessary repairs being made and the vehicle passing an appropriate safety inspection.

M. RELIABLE TRANSPORTATION must establish a complete crash prevention program including at a minimum, a detailed analysis of the cause(s) and preventability of each crash noted on the most recent compliance review; identification of company officials who will perform such analysis of future crashes and provide counseling to drivers involved in recordable crashes; detailed plans for periodic driver training and safety meetings/discussions of accident countermeasures, including accident prevention techniques, defensive driving, and remedial education of drivers involved in recordable crashes and/or a history of negligent driving; identification of drivers exhibiting dangerous or negligent driving behavior; and positive accident prevention measures.

N. RELIABLE TRANSPORTATION must stop falsifying records in order to evade detection of roadside violations. You must ensure that falsifying documents will stop immediately, and you must ensure that you will not attempt to evade violations cited during roadside inspections.

O. RELIABLE TRANSPORTATION must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

#### V. RESCISSION OF ORDER

You are subject to this ORDER unless and until this ORDER is rescinded in writing by FMCSA. Unless and until this ORDER is rescinded, and you have taken necessary action and your safety rating has been improved and you have valid and active operating authority, you are prohibited from operating any commercial motor vehicle(s) in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Field Administrator for FMCSA's Western Service Center has determined that the Remedial Action requirements specified in Section IV. of this ORDER have been fully satisfied and acceptable documentation submitted.

Before this ORDER may be rescinded RELIABLE TRANSPORTATION must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations and vehicles pose, and adequately demonstrate to the Field Administrator for FMCSA's Western Service Center the actions taken to eliminate the safety problems. **You cannot avoid this ORDER by continuing operations under the name of another person or company.** Any sale, lease or other transfer of equipment and/or direct assignment of contracts or other agreements for service by RELIABLE TRANSPORTATION requires the written approval of the Western Service Center Field Administrator. Any such action taken in anticipation of this ORDER must cease immediately.

Prior to rescission of this ORDER, RELIABLE TRANSPORTATION will be required to:

- A. Identify the cause for its noncompliance;

- B. Develop a detailed Safety Management Plan of action that addresses each area of non-compliance, the steps it intends to take to overcome its non-compliance and a time table for these steps;
- C. Develop and certify the commitment to comply with the FMCSRs; and
- D. Execute the Safety Management Plan and provide certification by all owners and officers.

Any request to rescind this ORDER and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Field Administrator, Western Service Center with a copy of the request and documentation to the Division Administrator, Utah Division, at the following addresses:

Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, Colorado 80215

Division Administrator, Utah Division  
Federal Motor Carrier Safety Administration  
310 East 4500 South, Suite 102  
Salt Lake City, Utah 84107

Rescission of this ORDER does not constitute a reinstatement of RELIABLE TRANSPORTATION's Federal operating authority registration. In order for you to resume for-hire motor carrier operations transporting cargo in interstate commerce, you will be required to reapply for operating authority registration and demonstrate that you are fit and willing and able to comply with: 1) the statutory and regulatory registration requirements; 2) applicable safety regulations including the FMCSRs; 3) the commercial motor vehicle safety requirements of employers and employees set forth in 49 U.S.C. § 31135; 4) the safety fitness requirements set

forth in 49 U.S.C. § 31144; and 5) minimum financial responsibility requirements established under 49 U.S.C. §§ 13906 and 31138.

#### **VI. FAILURE TO COMPLY**

Failure to comply with the provisions of this ORDER may subject RELIABLE TRANSPORTATION to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. You may be assessed civil penalties of up to \$16,000 per day for each day you continue the proscribed interstate or intrastate operations after the effective date and time of this Order. (49 C.F.R. Part 386 App. A. § IV(g)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 and imprisonment for a term not to exceed one year. (49 U.S.C. § 521 (b)(6)(A)).

#### **VII. PENALTIES FOR VIOLATIONS**

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalty provisions. Penalty provisions for violations of Federal statutes and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

#### **VIII. RIGHT TO REVIEW**

You have the right to an administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 working days of the issuance of this ORDER. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). A request for review must be addressed to the Assistant Administrator, United

States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to the Field Administrator, Western Service Center at the following addresses:

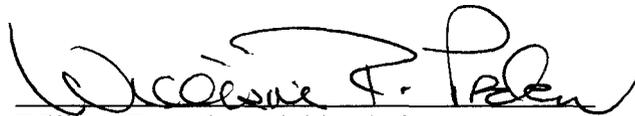
Assistant Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Field Administrator, Western Service Center  
Federal Motor Carrier Safety Administration  
12600 West Colfax Avenue, Suite B-300  
Lakewood, Colorado 80215

The request must state the material facts at issue which you believe dispute or contradict the finding that RELIABLE TRANSPORTATION's operations constitute an **imminent hazard** to the public.

**A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY.**

Date: March 24, 2012



William R. Paden, Field Administrator  
United States Department of Transportation  
Federal Motor Carrier Safety Administration