


UNITED STATES DEPARTMENT OF TRANSPORTATION

	US DOT # 2348928X	Legal: SERGIO TRISTAN MALDONADO Operating (DBA): TRISTAN TRANSFER
---	-----------------------------	--

MC/MX #: 830891	RFC #: TIMS780409SU9	Federal Tax ID:
Review Type: Compliance Review (CR)		
Scope: Principal Office	Location of Review/Audit: FMCSA Border Office	Territory:

Operation Types	Interstate	Intrastate	Business: Individual
Carrier: Non-HM	N/A	N/A	Gross Revenue: \$4,320.00 for year ending: 12/31/2013
Shipper: N/A	N/A	N/A	
Cargo Tank: N/A	N/A	N/A	

Company Physical Address:

INDEPENDENCIA # 7313
 NUEVO LAREDO, TA 88120 MEXICO BUENA VISTA

Contact Name: Sergio Tristan Maldonado
Phone numbers: (1) 867-710-1703 (2) 867-109-9188 **Fax**
E-Mail Address: rejego.tm@hotmail.com

Company Mailing Address:

4702 ARK CTS
 LAREDO, TX 78046

Carrier Classification

Authorized for Hire

Cargo Classification

General Freight Fresh Produce

Equipment

	Owned	Term Leased	Trip Leased		Owned	Term Leased	Trip Leased
Truck Tractor	2	0	0	Trailer	0	0	18

Power units used in the U.S.: 2
 Percentage of time used in the U.S.: 50

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:	5		Total Drivers: 5
>= 100 Miles:			CDL Drivers: 5





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part A

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:

Walker Plaza, 5810 San Bernardo Ave., Suite 290
Laredo, TX 78041
Phone: (956)712-1385 Fax:(956)723-1479

This report will be used to assess your safety compliance.

Person(s) Interviewed

Name: Sergio Tristan Maldonado

Title: Owner

Name:

Title:





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part B Violations

1 FEDERAL CRITICAL	Primary: 382.301(a)	Discovered 5	Checked 5	Drivers/Vehicles In Violation 5	Checked 5
--------------------------	---------------------	-----------------	--------------	---------------------------------------	--------------

Description

Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.

Example

Driver name:
Trip date: 10/21/2013
Hire date:

2 FEDERAL CRITICAL	Primary: 395.8(a)	Discovered 16	Checked 155	Drivers/Vehicles In Violation 4	Checked 5
--------------------------	-------------------	------------------	----------------	---------------------------------------	--------------

Description

Failing to require driver to make a record of duty status.

Example

Driver name:
Trip date: 10/04/2013
Description: Driver prepares time sheets, driver falsified time sheet therefore violation is failure to prepare record of duty status.

3 FEDERAL CRITICAL	Primary: 396.11(a)	Discovered 47	Checked 47	Drivers/Vehicles In Violation 2	Checked 2
--------------------------	--------------------	------------------	---------------	---------------------------------------	--------------

Description

Failing to require driver to prepare driver vehicle inspection report.

Example

Driver name:
Vehicle Number: 8
Trip Date: 10/14/2013
Description of Violation: Inspection had several part 393 violations on truck # 8.

4 FEDERAL	Primary: 382.601(a)	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked
--------------	---------------------	-----------------	--------------	----------------------------------	---------

Description

Failing to provide educational materials explaining requirements of part 382 and employer's drug and alcohol program policies.

Example

Driver name:
Trip date: 09/18/2013
Information not provided: No educational material nor any drug and/or alcohol policy.

5 FEDERAL	Primary: 382.603	Discovered 1	Checked 1	Drivers/Vehicles In Violation	Checked
--------------	------------------	-----------------	--------------	----------------------------------	---------

Description

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.

Example

Driver name:
Trip date: 09/18/2013
Supervisor: Sergio Tristan Maldonado





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part B Violations

6 FEDERAL	Primary: 391.21(a)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
<p>Description Using a driver who has not completed and furnished an employment application.</p> <p>Example Driver name: Trip date: 09/28/2013 Description of violation: Application is missing the following: 1. The name and address of the employing motor carrier; 2. The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as buses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he/she has operated; 3. A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused; 4. A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted; 5. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;</p>					
7 FEDERAL	Primary: 391.23(a)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
<p>Description Failing to investigate driver's background.</p> <p>Example Driver name: Trip date: 09/28/2013 Description of violation: Carrier did not conduct an investigation of the driver's safety performance history with Department of Transportation regulated employers during the preceding three years.</p>					
8 FEDERAL	Primary: 391.23(e)(1)	Discovered 4	Checked 4	Drivers/Vehicles In Violation 4	Checked 4
<p>Description Failing to investigate the driver's alcohol and controlled substances history for the previous 3 years.</p> <p>Example Driver name: Trip date: 09/28/2013 Description of violation: Carrier did not verify whether, within the previous three years, the driver had violated the alcohol and controlled substances prohibitions under subpart B of part 382 of this chapter, or 49 CFR part 40.</p>					
9 FEDERAL	Primary: 391.51(a)	Discovered 1	Checked 5	Drivers/Vehicles In Violation 1	Checked 5
<p>Description Failing to maintain driver qualification file on each driver employed.</p> <p>Example Driver name: Trip date: 10/16/2013 Description of violation: Missing complete driver qualification file.</p>					





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part B Violations

10 FEDERAL	Primary: 395.3(a)(2)	Discovered 9	Checked 132	Drivers/Vehicles In Violation 3	Checked 5
---------------	----------------------	------------------------	-----------------------	---	---------------------

Description

Requiring or permitting a property-carrying commercial motor vehicle driver to drive after the end of the 14th hour after coming on duty.

Example

09/19/2013 - drove 1 hour and 22 minutes past the 14th hour since coming on duty.

11 FEDERAL	Primary: 395.3(b)(2)	Discovered 5	Checked 107	Drivers/Vehicles In Violation 2	Checked 5
---------------	----------------------	------------------------	-----------------------	---	---------------------

Description

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

Example

Driver name:
Dates of 8 day period: 10/05/2013 - 10/12/2013
Date of violations: 10/12/2013
Time: 3:12 PM to 3:52 PM
Total hours in violation: 41 minutes

12 FEDERAL	Primary: 395.8(j)(2)	Discovered 1	Checked 1	Drivers/Vehicles In Violation 1	Checked 1
---------------	----------------------	------------------------	---------------------	---	---------------------

Description

Failing to obtain from driver, used for the first time or intermittently, a signed statement giving the total time on duty during the preceding 7 days and time at which last relieved from duty.

Example

Driver name:
Trip date: 10/16/2013
Description of violation: When using a driver for the first time or intermittently, carrier shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

13 FEDERAL	Primary: 396.3(b)(2)	Discovered 2	Checked 2	Drivers/Vehicles In Violation 2	Checked 2
---------------	----------------------	------------------------	---------------------	---	---------------------

Description

Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed.

Example

Vehicle # 08
Trip date: 10/09/2013

Safety Fitness Rating Information:		OOS Vehicle (CR): 0			
Total Miles Operated	2,130	Number of Vehicle Inspected (CR): 0			
Recordable Accidents	0	OOS Vehicle (MCMIS): 1			
Recordable Accidents/Million Miles	0.00	Number of Vehicles Inspected (MCMIS): 3			





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part B Violations

Your proposed safety rating is :

CONDITIONAL

Rating Factors		Acute	Critical
Factor 1:	S	0	0
Factor 2:	C	0	1
Factor 3:	U	0	2
Factor 4:	C	0	1
Factor 5:	N	0	0
Factor 6:	S	-	-

This rating will become the final rating 60 days from the date indicated on a forthcoming official notice from the Federal Motor Carrier Safety Administration headquarters in Washington, D.C.

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

Corrective actions must be taken for the violations (deficiencies) listed on Part B of this review. Title 49 CFR Sections 385.15 and 385.17 provide for administrative review and a change to a safety rating based on corrective actions, respectively. A request for a change to a safety rating under section 385.17 may be made at any time. A motor carrier may request, in writing, a change in the rating by providing evidence of corrective actions to the Field Administrator for the FMCSA Service Center in which the carrier maintains its principal place of business. (See 49 CFR 385.17 for additional details). A request for administrative review under section 385.15 must be made within 90 days of the date of the proposed safety rating issued under section 385.11(c) or a final safety rating issued under section 385.11(b), or within 90 days after denial of a request for a change in rating under section 385.17





Part B Requirements and/or Recommendations

1. CONTROLLED SUBSTANCES AND ALCOHOL BASIC PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN

Sergio Tristan Maldonado dba Tristan Transfer does not have policies and procedures in place to identify what type of drug and/or alcohol testing drivers are subject too. Sergio Tristan Maldonado, owner of Sergio Tristan Maldonado dba Tristan Transfer, also does not provide drivers with educational material or a drug and/or alcohol policy as required by 382.601(a).

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a written company policy incorporating by reference all regulations regarding controlled substances and alcohol use, testing, training, and records retention for all employees.
Develop a policy requiring drivers to submit copies of all citations for moving violations to carrier management within 24 hours.
Establish a process to ensure that drivers who are randomly tested can be immediately removed if they are found to be positive and that they do not return to safety-sensitive duties until they have complied with the "return-to-duty" process.
Establish written policies and procedures that promote, verify, and enforce adherence to all controlled-substance and alcohol rules and regulations.
Establish a process to ensure that test results are properly safeguarded from unauthorized disclosure to prospective employers without specific written consent and from disclosure under any circumstances to insurance companies and other nonqualified parties, in accordance with regulations.
Develop a policy to ensure that all alcohol testing is conducted immediately before or after the period that employees are performing a safety-sensitive function.
Consider developing a driver selection protocol that uses valid random-number-generator software on a monthly basis to select, by driver identification number, 5 to 8 percent of drivers for controlled-substance testing and 2 to 5 percent for alcohol testing.
Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: http://ai.fmcsa.dot.gov/SMS.
Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

2. VEHICLE MAINTENANCE BASIC - INSPECTION-REPAIR-MAINTENANCE PROCESS BREAKDOWN: Policies and Procedures

DESCRIPTION OF PROCESS BREAKDOWN

Sergio Tristan Maldonado dba Tristan Transfer's owner Sergio Tristan Maldonado does not have policies and procedures in place that requires driver to prepare driver vehicle inspection reports. Mr. Tristan Maldonado was not aware that drivers were required to conduct a pre-trip and post trip inspection each day vehicle is being operated. Also as per carriers mechanic, carrier has not implemented a preventive maintenance program and owner has not asked him to implement one.





Part B Requirements and/or Recommendations

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Policies and Procedures.

- Develop a system of preventive maintenance for compliant, safe, and efficient fleet operations...
• Develop a procedure ensuring that vehicle defects that impact safety and/or safety compliance are reported...
• Develop procedures to ensure that management is notified of vehicle defects through the use of Driver Vehicle Inspection Records (DVIRs) and other communication channels...
• Develop a policy ensuring that drivers are qualified to complete thorough and timely Driver Vehicle Inspection Records (DVIRs) by the end of the day of the trip and prior to a subsequent assignment.
• Establish a policy requiring drivers to submit copies of all roadside inspections to carrier management within 24 hours.
• Develop policies and procedures requiring drivers to immediately notify appropriate management of any roadside vehicle Out-of-Service (OOS) order.
• Develop a written and progressive disciplinary policy focused on taking corrective action to ensure drivers comply with regulations and policies.

Seek Out Resources:

- You are encouraged to review your company's record at the following website: http://ai.fmcsa.dot.gov/SMS. You will need to use your PIN Number that has been provided by the FMCSA.
• Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

3. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Qualification and Hiring

DESCRIPTION OF PROCESS BREAKDOWN

Sergio Tristan Maldonado dba Tristan Transfer's owner Sergio Tristan Maldonado, does not have anyone qualified to make sure that all driver qualification files are complete and accurate. Mr. Tristan Maldonado was not aware that the carrier was required to prepare a driver qualification file on drivers that are only used once. Mr. Tristan was also not aware what information is required to be on a driver application as well as not being aware that he had to conduct previous employer checks.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Qualification and Hiring.

- Ensure that Motor Vehicle Records (MVRs) from States issuing Commercial Driver's Licenses (CDLs) are reviewed for driver-fitness-related violations of all prospective drivers for the last three years.
• Ensure that drivers are qualified by querying applicants, checking with previous employers and references, and obtaining necessary documents regarding driver fitness, such as those pertaining to previous violations, Commercial Driver's License (CDL), medical qualifications, operational qualifications from training, and relevant experience.
• Review and evaluate gaps in employment, frequent job changes, incomplete applications, within-company applications and reassignments, operational limitations such as those pertaining to long-combination vehicles (LCVs) and HAZMAT, physical impairments, and controlled-substance and alcohol involvement.
• Require that drivers fill out the long form for the medical card and be examined by the carrier's preferred doctor to ensure that their medical qualifications are accurate.
• Ensure that the employment application captures all information required by the Federal Motor Carrier Safety Regulations (FMCSRs), such as whether the driver can handle the physical requirements of the job.
• Enhance the recruitment process to identify and attract qualified applicants for the positions of safety director, dispatcher, and driver by using outside resources such as industry affiliations, recruiters, and consultants for employee searches and referrals.





Part B Requirements and/or Recommendations

Seek Out Resources:

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

4. HOS COMPLIANCE BASIC PROCESS BREAKDOWN: Training and Communication

DESCRIPTION OF PROCESS BREAKDOWN

Sergio Tristan Maldonado dba Tristan Transfer's owner Sergio Tristan Maldonado, is failing to properly train his drivers on how to properly use their electronic on board recorders. Mr. Tristan and his drivers have received training through Teletrac but do not seem to understand the concept on how use the EOBR which has caused various hours of service violations. Mr. Tristan was also not verifying that drivers that prepared time sheets were not working outside the hours documented. Lastly, Mr. Tristan does not require any driver used for a single trips to prepare any record of duty status.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Communication and Training.

- Convey expectations to all applicable staff for adhering to Hours-of-Service (HOS) regulations and company policies and procedures, and for executing responsibilities by providing new-hire and refresher training, and establish communication channels such as newsletters and/or meetings focused on conflicts between scheduling and HOS rules.
- Inform drivers that management will be monitoring and tracking Records of Duty Status (RODS) .
- Ensure that managers and dispatchers encourage fatigued drivers to pull over and take a nap.
- Communicate the carrier's HOS Compliance percentile to all staff, and explain to them individually what they can do to help the carrier improve the percentile.
- Ensure that managers and supervisors communicate their ongoing commitment to abiding by Hours-of-Service (HOS) regulations and to not driving when fatigued for any reason, including illness.
- Ensure that all staff (drivers, dispatchers, sales) involved in the Hours-of-Service (HOS) process receives training as required by regulations and/or company policies.
- Train managers, supervisors, and dispatchers on how to track and communicate drivers' Hours of Service (HOS) using the EOBR, including checking the prior seven-day duty statement for intermittent drivers.
- Train the safety director and dispatchers on how to schedule routes that can be completed within Hours-of-Service (HOS) regulations.
- Train dispatchers and drivers to understand that drivers cannot be assigned a run if illness impairs their ability and/or alertness.
- Train all staff who are required to monitor and track Hours of Service (HOS) on appropriate company policies, including those related to discipline and incentives.
- Provide training/testing program to current drivers on proper log completion, how to achieve proper rest on trips by instructing them on the difference between on-duty not driving, for example a driver waits while trailer is loaded, and off-duty, and the importance of proper rest between shifts.
- Train drivers on the proper use of sleeper berths, including the correct procedure for entering time spent in a berth as a co-driver on the driver's Record of Duty Status (RODS).
- Ensure that drivers are trained in driver Out-of-Service (OOS) rules, their responsibilities in adhering to those rules, and the carrier's procedures for reporting OOS violations and communicating appropriately with other personnel.
- Provide hiring officials with guidance on how best to attract, screen, and qualify applicants who are most likely to adhere to Hours-of-Service (HOS) regulations and company policies and procedures.
- Reinforce training about Hours-of-Service (HOS) policies, procedures, and responsibilities to drivers, dispatchers, and other employees, using job aids, post-training testing, and/or refresher training. Encourage informal feedback among them so that they can help each other to improve.

Seek Out Resources:





Part B Requirements and/or Recommendations

- You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
 - Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.
5. For more information on CSA please look over our website at: <http://csa.fmcsa.dot.gov/>
6. Obtain and become familiar with the United States Federal Motor Carrier Safety Regulations, Title 49 CFR, Parts 40, 325, 350, & 355-399. Also please ensure that you view our website www.fmcsa.dot.gov on a constant bases for any changes to our regulations.
7. If you have any questions concerning your upgrade request please call the Federal Motor Carrier Safety Administration in Austin, TX at PH # (512) 916-5440.
8. •Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
- Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
 - NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
 - NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.
- The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information:
<http://www.psp.fmcsa.dot.gov/Pages/default.aspx>
- All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which were provided and reviewed with motor carrier official. Motor carriers should visit the following website for more information:
<http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>
 - PLEASE NOTE: The violations discovered during this compliance review may affect the civil penalty proposed in any subsequent Notice of Claim. In addition, your history of prior violations of the Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations or the Federal Motor Carrier Commercial Regulations may also affect the civil penalty proposed in any subsequent Notice of Claim. Your signature for receipt of this report acknowledges your understanding that the violations discovered by the FMCSA during this review may be used to calculate any civil penalty proposed as a result of this review. Your signature is not an admission of the violations





TRISTAN TRANSFER (SERGIO TRISTAN MALDONADO dba)

U.S. DOT #: 2348928X

RFC #: TIMS780409SU9

Review Date:

12/20/2013

Part B Requirements and/or Recommendations

identified.

Attached to this report is Table 1, which identifies all the documented violations which were discovered during the course of this review.

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/>.

