

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

Woods Dependable Towing, LLC)
(USDOT 3435215)) **Order No.:** AL-2021-5002-IMH
) **Service Date:** _____
) **Service Time:** _____
)

IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER

This is an Imminent Hazard Operations Out-of-Service Order (“ORDER”) issued by the Secretary of the United States Department of Transportation (the “Secretary”) pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31132(3), 31133(a)(10), 31134, 31144(c)(1), and 49 CFR § 386.72(b)(1), and pursuant to a delegation of authority to the Field Administrator, Southern Service Center, Federal Motor Carrier Safety Administration (“FMCSA”), United States Department of Transportation (“USDOT”), Atlanta, Georgia. This ORDER applies to the motor carrier operations of Woods Dependable Towing, LLC (USDOT No. 3435215) and to all its officers, agents, and employees (collectively referred to as “you,” “your,” or “Woods Dependable Towing, LLC”) and to all commercial motor vehicles owned or operated on your behalf.

The Secretary and the FMCSA find your continued operation of any commercial motor vehicle (“CMV”)¹ in interstate or intrastate commerce constitutes an **imminent hazard**. This

¹ Under 49 CFR § 390.5T, a commercial motor vehicle includes “any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—(1) [h]as a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or (2) [i]s designed or used to transport more than 8 passengers (including the driver) for compensation; or (3) [i]s designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.”

finding means that based upon your present state of unacceptable safety compliance, your operation of any CMV substantially increases the likelihood of serious injury or death if not discontinued immediately.

EFFECTIVE IMMEDIATELY YOU MUST
CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS IN
INTERSTATE AND INTRASTATE TRANSPORTATION.

Your vehicles and drivers now in interstate or intrastate commerce may proceed to the next scheduled stop where the cargo on board can be safely secured. *See* 49 CFR § 386.72(b)(4) and (5).

YOU MAY NOT LOAD OR TRANSPORT ANY ADDITIONAL CARGO OR
OPERATE ANY COMMERCIAL MOTOR VEHICLE IN INTERSTATE OR
INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT.

“Operate” or “operating” includes without limitation all interstate and intrastate transportation by your drivers from all dispatching locations or terminals.

Within eight (8) hours of the service of this ORDER, you must submit to the Field Administrator in writing by facsimile and/or electronic mail the location of each CMV under your control. You must identify the vehicle by year, make, model and vehicle identification number (VIN). You must include a copy of the current registration. You must also identify the street address, city, and state of the location of each vehicle, and you must identify the driver last operating the vehicle. Your submission must be sent to:

Field Administrator
Fax: (404) 327-7349
Electronic Mail: sscnf@dot.gov

You cannot avoid this ORDER by continuing operations under the name of another person or company.

I. JURISDICTION

You conduct motor vehicle operations in interstate commerce using a combination of motor vehicles with a gross vehicle weight rating (“GVWR”) of 10,001 pounds or more. Therefore, you are subject to Federal motor carrier safety statutes and regulations, including the Federal Motor Carrier Safety Regulations (“FMCSRs”), 49 CFR parts 350-399, as well as Orders of the USDOT and FMCSA. *See* 49 U.S.C. §§ 506, 507, 13501, 31133, 31136, and 31144. You are required to comply, and to ensure your drivers comply, with the FMCSRs and Orders of the USDOT and FMCSA. *See* 49 U.S.C. § 31135(a); 49 CFR § 390.11.

This ORDER has the force and effect of any other Order issued by FMCSA and is binding on you, and all owners, officers, members, directors, successors, assigns, and closely affiliated companies. This ORDER applies to all motor carrier operations and all vehicles owned, leased, rented or otherwise operated by you.

II. BACKGROUND AND BASIS FOR ORDER

The basis for determining that your motor vehicle operations pose an imminent hazard to the public is your continued widespread noncompliance with the FMCSRs, including regulations in 49 CFR part 391 (Qualifications of Drivers), 49 CFR part 395 (Hours of Service of Drivers), and 49 CFR part 396 (Vehicle Inspection, Repair, and Maintenance).

FMCSA’s investigation revealed that you lack any safety management controls to ensure compliance with the FMCSRs and ensure drivers operate your CMVs safely. The cumulative violations of the FMCSRs significantly increase the likelihood of death or serious injury to your drivers and the motoring public and establishes an imminent hazard if your operations are not discontinued immediately.

The specific deficiencies that substantially increase the likelihood of serious injury or death if not discontinued immediately are as follows:

A. Egregious Safety Violations Discovered During Investigation

During a March 2021 compliance investigation, extensive and repeated violations of acute and patterns of violating critical regulations were discovered in 49 CFR parts 391, 395, and 396. Violations of acute regulations are described in 49 CFR Part 385 Appendix B as violations where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall safety posture of the motor carrier. Violations of critical regulations are characterized under Appendix B as violations indicative of breakdowns in management's operational controls. Violation of these regulations is evidence that you lack any safety management controls to ensure compliance with the FMCSRs and ensure safe operation of your CMVs by your CMV drivers. The proposed safety rating based on the compliance investigation is Unsatisfactory, based in part on the violation of the acute and patterns of violation critical regulations.

1. Vehicle Maintenance and Inspection

You do not have a systematic vehicle inspection, repair, and maintenance program in place to prevent the operation of unsafe CMVs in violation of 49 CFR § 396.3(a). During the past 24 months ending January 29, 2021, you had a vehicle out-of-service rate of 51.61% which is more than twice as high as the national average. Your drivers were cited for 40 vehicle maintenance violations such as inoperative required lamps (49 CFR § 393.9), improper breakaway or emergency braking (49 CFR § 393.43), tire tread depth less than 1/32 of an inch (49 CFR § 393.75), exposed tire fabric (49 CFR § 393.75(a)), flat tire or audible air leak (49 CFR § 393.75(a)(3)), and tire ply or belt material exposed (49 CFR § 393.75(a)(1)).

Further, safety investigators reviewed five vehicle maintenance files and discovered two of those files had no evidence of a preventive maintenance program or evidence that regular inspections of your CMVs were performed in violation of 49 CFR § 396.3(b). You also failed

to ensure the five CMVs used during the investigation period were periodically inspected in violation of 49 CFR § 396.17(a), and you falsified two of the annual periodic inspection forms in violation of 49 CFR §§ 390.35/396.17(a).

2. Hours of Service

You fail to have a system in place to monitor your drivers' hours of service ("HOS") compliance as required by 49 CFR part 395. You do not review your drivers' records of duty status ("RODS") for falsification and do not review RODS for completeness, accuracy, or violations of maximum HOS regulations. During the compliance investigation, safety investigators found over a 10% violation rate of drivers submitting false RODS in violation of 49 CFR § 395.8(e)(1). Safety investigators also found a 10% violation rate of failing to preserve your drivers' RODS for six months. Further, you fail to require drivers to prepare RODS using the appropriate method in violation of 49 CFR § 395.8(a)(1). Safety investigators discovered that one driver was routinely unplugging his electronic logging device ("ELD") and plugging it back in without powering the ELD down. This manipulation of his ELD results in recording data not in compliance with the functional specification for ELDs.

Your failure to monitor your drivers' HOS compliance has led to two crashes. On October 21, 2020, while driving a CMV from Forestdale, Alabama to Troy, Ohio, driver Samuel Wren was involved in a single-vehicle crash in the county of Hardin, Tennessee at the intersection of State Route 128 and US Route 64. A subsequent FMCSA investigation discovered that he had falsified his RODS prior to and on the day of the crash, a violation of 49 CFR § 395.8(e)(1). At 19:08 on October 19, 2020 through 7:23 on October 20, 2020, driver Wren entered that he was off-duty into his ELD when, in fact, he was driving from Forestdale, Alabama to Tipp City, Ohio. The distance between Forestdale, Alabama and Tipp City, Ohio is approximately 532 miles; it is a 7-hour 33-minute drive. At 22:52 on October

20, 2020 through the entire 24-hour period on October 21, 2020, he logged off-duty at Pegram, Tennessee and remained logged out of his ELD. In fact, on October 21, 2020 at approximately 01:30, he was involved in a crash in the county of Hardin, Tennessee. The distance between Pegram, Tennessee and the site of the crash in Hardin County, Tennessee is approximately 126 miles; it is a 2-hour 11-minute drive. At 21:26 on October 20, 2020, he was in violation of 49 CFR § 395.3(a)(2), the 14-hour rule, and remained in violation at the time of the crash almost four hours later.

On November 13, 2020, while driving a CMV from Forestdale, Alabama to Troy, Ohio, driver Samuel Wren was again involved in a single-vehicle crash in Sharon, Ohio. He was traveling on the ramp from State Route 315 North onto I-270 when he overturned his CMV. A subsequent FMCSA investigation discovered that he had falsified his RODS prior to and on the day of the crash, a violation of 49 CFR § 395.8(e)(1). At 22:28 on November 11, 2020, he powered down his ELD at Goodlettsville, Tennessee, and at 22:55 on November 12, 2020, he powered up his ELD and the location showed Goodlettsville, Tennessee. Thereafter, once the ELD unit completed its certification process, his next known location at 23:10 on November 12, 2020, was recorded by his ELD as Forestdale, Alabama. His ELD showed his driving time between Goodlettsville, Tennessee and Forestdale, Alabama to be 15 minutes. In fact, the actual distance between Goodlettsville, Tennessee and Forestdale, Alabama is approximately 207 miles; it is a 2-hour 58-minute drive. At 05:33 on November 13, 2020, his ELD recorded that he was off-duty in Horse Cave, Kentucky until 14:33 at which time his ELD recorded his status as on-duty, not driving in Worthington, Ohio. He falsified his RODS to conceal the fact that he drove from Horse Cave, Kentucky to Worthington, Ohio. The distance between Horse Cave, Kentucky and Worthington, Ohio is approximately 294 miles; it is a 4-hour 26-minute drive. He continued to drive and he was involved in a single-vehicle

crash in Sharon, Ohio on November 13, 2020.

3. Driver Qualification

You fail to ensure that drivers are qualified to operate your CMVs. You allowed an unqualified driver who tested positive for controlled substances to operate your CMV in violation of 49 CFR § 391.41(b)(12). You fail to maintain any records relating to your investigation of drivers' safety performance history in driver qualification (DQ) files in violation of 49 CFR § 391.53(a), and your DQ files contain either no driver employment application or incomplete driver employment applications in violation of 49 CFR § 391.21(a). You also fail to maintain motor vehicle records from each State for your drivers in four DQ files in violation of 49 CFR § 391.51(b)(2) and a road test certificate in one DQ file in violation of 49 CFR 391.51(b)(3).

B. Effect of Violations

Your complete and utter disregard for ensuring compliance with the FMCSRs substantially increases the likelihood of serious injury or death for your drivers and the motoring public if your operations are not discontinued immediately. Your entire operations constitute an imminent hazard to safety which may only be abated by the cessation of your entire operations.

III. REMEDIAL ACTION

To eliminate this imminent hazard, and before you will be permitted to resume your motor carrier operations placed out of service by this Order, you must take specific steps to ensure and demonstrate compliance with the FMCSRs including the following:

1. You must establish and demonstrate safety management controls and procedures to ensure that your drivers are qualified to operate a CMV, as specified in 49 CFR § 391.11.

2. In accordance with 49 CFR § 391.51, you must also create and maintain driver qualification files.
3. You must establish safety management controls and procedures to ensure that your drivers comply with the hours of service requirements as set forth in 49 CFR part 395 including ensuring that your drivers: (1) prepare and submit records of duty status using the appropriate method, (2) retain and submit supporting documents, (3) do not exceed maximum driving times, (4) do not falsify records of duty status, and (5) accurately complete records of duty status in the required form and manner. Your safety management controls must also ensure that you maintain drivers' records of duty status and supporting documents for 6 months in accordance with 49 CFR § 395.8(k). You must also (1) ensure management of ELD accounts to include accurate number of current driver accounts, (2) ensure carrier officials are trained to utilize the Keeptruckin (or another ELD system) dashboard and devices automatically recorded data to assess driver availability upon dispatch, and (3) implement systems to ensure the management and control of drivers HOS activities to ensure compliance with the HOS limitations regulations (11 hr. rule, 14 hr. rule 60/7 and/or 70/8-day rule)
4. You must establish safety management controls and procedures that ensure that each and every CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, is safe and is systematically and properly inspected, maintained, and repaired as required by 49 CFR part 396, and that documentation of inspections, maintenance and repair are obtained and maintained as required. Your safety management controls must ensure that your drivers complete Driver Vehicle Inspection Reports when required in accordance with 49 CFR § 396.11.
5. You must ensure that each CMV you operate or intend to operate, whether owned, rented, leased or otherwise used, has been and is periodically inspected as required by 49 CFR § 396.17 and Appendix G to Subchapter B of Chapter III. You must also ensure, in accordance with 49 CFR § 396.19, that only qualified inspectors conduct such periodic inspections and that documentation of training and qualifications is maintained.
6. You must establish safety management controls and procedures to ensure that defects and deficiencies discovered during inspections of your CMVs are repaired and that vehicle out-of-service defects discovered are repaired before the vehicle is operated in accordance with 49 CFR § 396.9(c)(2).
7. You must contact FMCSA's Alabama Division and arrange for inspection of each of your CMVs by an FMCSA inspector or an inspector designated by FMCSA.

8. In accordance with 49 CFR § 390.3T(e), you must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they can conduct motor carrier operations consistent with those regulations.
9. You must comply with all Orders issued by FMCSA.

IV. RESCISSION OF ORDER

You are subject to this ORDER unless and until this ORDER is rescinded in writing by FMCSA. Until this ORDER is rescinded and you have a valid and active USDOT number and, as applicable, operating authority registration, you are prohibited from operating any CMV, as defined by 49 CFR § 390.5, in interstate and/or intrastate commerce. This ORDER will not be rescinded until the Field Administrator for FMCSA's Southern Service Center has determined that the Remedial Action requirements, specified in Paragraph III of this ORDER, have been fully satisfied and acceptable documentation submitted.

Before this ORDER may be rescinded, you must comply with the provisions of this ORDER, eliminate the deficiencies constituting the imminent hazard that your CMV operations pose, and provide evidence to the Field Administrator for FMCSA's Southern Service Center of the actions taken to eliminate safety problems.

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

Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Boulevard, Suite 1700
Atlanta, Georgia 30345
Email: sscenf@dot.gov

Division Administrator, Alabama Division
Federal Motor Carrier Safety Administration
520 Cotton Gin Road
Montgomery, Alabama 36117
Email: clinton.seymour@dot.gov

In order for you to resume motor carrier operations in interstate or intrastate commerce, you will be required to apply for any required 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 31139.

To be eligible for registration, you must not be subject to any other order prohibiting you from operating in interstate commerce.

V. ENFORCEMENT OF ORDER

This ORDER, issued pursuant to 49 U.S.C. §§ 521(b)(5)(A), 13905(f), 31144(c)(1) and (5), 31132(3), 31133, and 31134 and 49 CFR § 386.72(b)(1), is an Order of, and enforceable by, the Secretary. Violations of this ORDER may subject you to civil penalties and may also result in an action in the United States District Court for equitable relief and punitive damages. You may be assessed civil penalties of up to \$27,813 for each violation of this ORDER. *See* 49 U.S.C. §§ 507, 521(b)(2)(F) and 521(b)(4) and 49 CFR part 386 App. A. § IV(g)). You may also be assessed civil penalties of not less than \$11,125 for providing transportation requiring registration, including operating a CMV in interstate commerce, without operating authority registration and up to \$15,691 for operating a CMV in interstate commerce without USDOT number registration. *See* 49 U.S.C. §§ 14901, 14702-03, 507, 521(b)(2)(F) and 31134. 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).

VI. PENALTIES FOR VIOLATIONS OF FEDERAL REQUIREMENTS

Any person, including any CMV operator, employer, and/or 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 statute and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements, including the FMCSRs and Orders of the FMCSA, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VII. RIGHT TO REVIEW

You have the right to administrative review under 5 U.S.C. § 554 and 49 CFR § 386.72(b)(4). If requested, administrative review must commence within ten days after the petition for review is filed and must be concluded as expeditiously as practicable but may run longer than ten days from the date of issuance of such Order or the filing of the petition for review. *See* 49 U.S.C. § 521(b)(5) and 49 CFR § 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 Adjudications Counsel and the Field Administrator, Southern Service Center, via electronic mail or at the following addresses:

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

Adjudications Counsel (MC-CCA)
Federal Motor Carrier Safety Administration
Office of the Chief Counsel
1200 New Jersey Avenue, S.E.

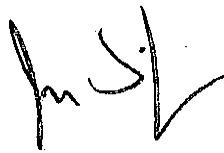
Washington, DC 20590
Email: FMCSA.Adjudication@dot.gov

Field Administrator, Southern Service Center
Federal Motor Carrier Safety Administration
1800 Century Boulevard, Suite 1700
Atlanta, Georgia 30345
Email: sscenf@dot.gov

The request must state the material facts at issue which you believe dispute or contradict the finding that your CMV operations in interstate or intrastate commerce constitute an imminent hazard to the public.

A REQUEST FOR ADMINISTRATIVE REVIEW DOES NOT SUSPEND OR DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. *See* 49 CFR § 386.72(b)(4). This ORDER is separate and independent from all other orders or actions that may be issued by FMCSA or other jurisdiction, and does not amend or modify any other orders or actions. Any request for administrative review of this ORDER does not attach to or apply to any other order or action.

Date: March 5, 2021



JON A. DIERBERGER
Field Administrator, Southern Service Center
United States Department of Transportation
Federal Motor Carrier Safety Administration